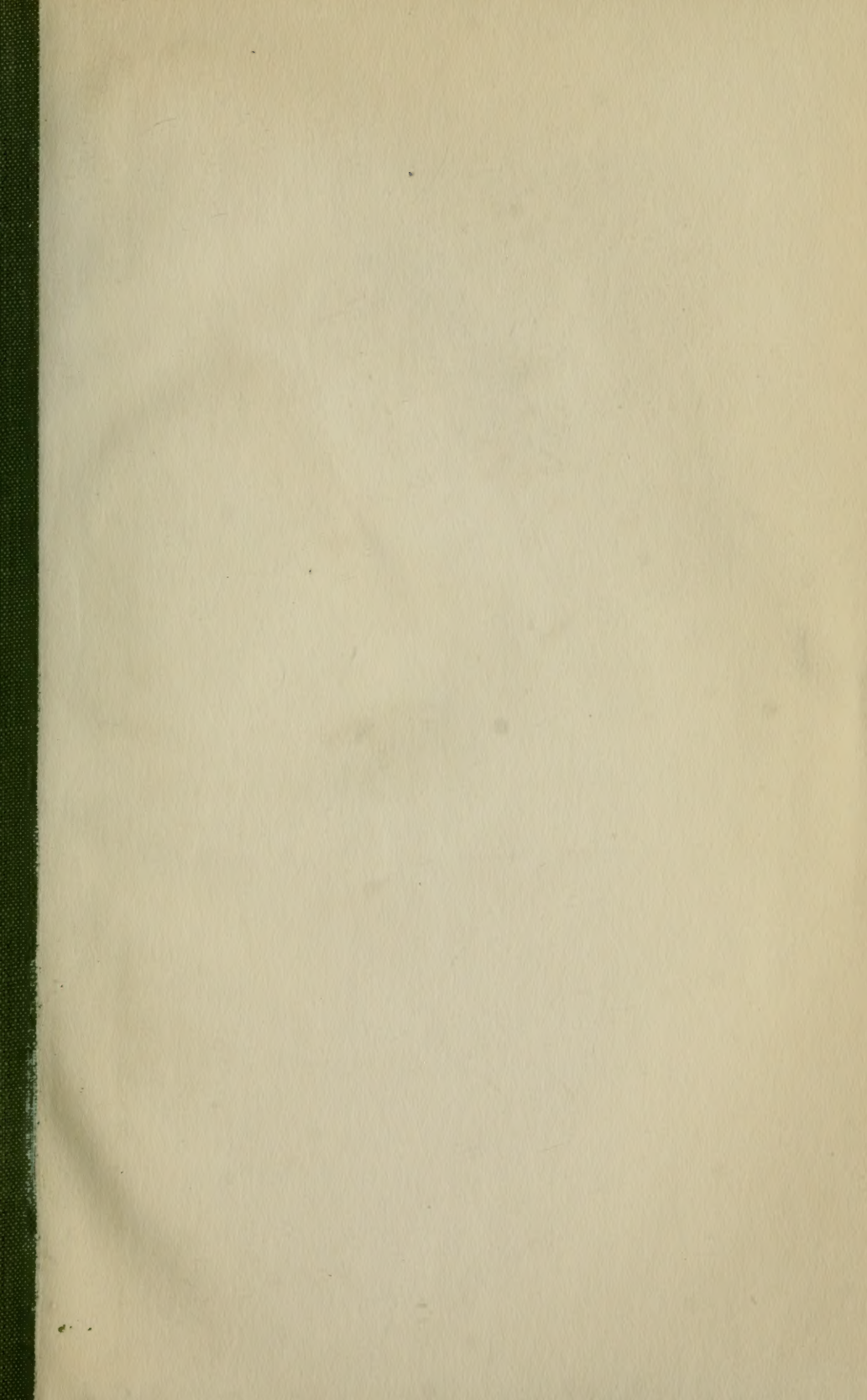


3 1761 08381798 1

UNIV. OF
TORONTO
LIBRARY



R
La Ors
S

THE
JEWISH QUARTERLY REVIEW

111

NEW SERIES

EDITED BY

CYRUS ADLER AND S. SCHECHTER

VOLUME VI

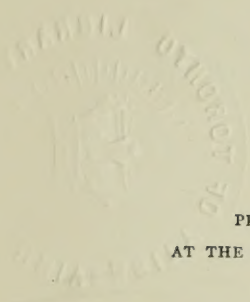
1915-1916



PHILADELPHIA
THE DROPSIE COLLEGE FOR HEBREW
AND COGNATE LEARNING

LONDON: MACMILLAN & COMPANY, LTD.

418289
16.12.43



PRINTED IN ENGLAND
AT THE OXFORD UNIVERSITY PRESS

DS
101
J5
v.6

CONTENTS

	PAGE
ADLER, CYRUS: Editorial Announcement	337
BENTWICH, NORMAN: The Rightfulness of the Jews in the Roman Empire	325 ✓
CASANOWICZ, I. M.: Recent works on Comparative Religion	185
DAICHES, SAMUEL: An Explanation of Isaiah 27. 8	399
EFROS, ISRAEL ISAAC: The Problem of Space in Jewish Mediaeval Philosophy	495
FRIEDLAENDER, ISRAEL: The Present Position and the Original Form of the Prophecy of Eternal Peace in Isaiah 2. 1-5 and Micah 4. 1-5	405
FRIEDLAENDER, ISRAEL: Note on 'An Autograph Respon- sum of Maimonides' (<i>JQR.</i> , VI, 225 ff.)	588
HALPER, B.: A Volume of the Book of Precepts by Ḥefeṣ b. Yaśliah. Hebrew Translation	97
HALPER, B.: Recent Rabbinical Literature	209
HALPER, B.: An Autograph Responsum of Maimonides	225
HALPER, B.: Recent Arabic Literature	433
HIRSCHFELD, HARTWIG: Fragments of Sa'adyāh's Arabic Pentateuch Commentary	359
HURWITZ, SOLOMON T. H.: Pygmy-Legends in Jewish Literature	339
LAUTERBACH, JACOB Z.: Midrash and Mishnah. A Study in the Early History of the Halakah. II-IV	23, 303
LEBENDIGER, ISRAEL: The Minor in Jewish Law. I-III	459
MANN, JACOB: Jesus and the Sadducean Priests: Luke 10. 25-37	415

	PAGE
MARMORSTEIN, A. : To <i>JQR</i> , V, 443-52	157
MARX, ALEXANDER : Recent Hebrew Bibliography and Palaeography	163
MARX, ALEXANDER : Strack's 'Aboth'	423
MINGANA, ALPHONSE : Syriac Versions of the Old Testa- ment	385
NACHT, JACOB : The Symbolism of the Shoe with special reference to Jewish Sources	I
REIDER, JOSEPH : Brune's 'Flavius Josephus'; Richard- son's 'Library History'; 'New York Public Library Jewish Collection'	453
SAPIR, E. : Notes on Judeo-German Phonology	231
SEGAL, M. H. : Studies in the Books of Samuel. II	267, 555

THE SYMBOLISM OF THE SHOE WITH SPECIAL REFERENCE TO JEWISH SOURCES

BY JACOB NACHT, Focșan, Rumania.

EVEN the shoe has its history, its significance. Many a custom in connexion with the shoe which we practise blindly to this very day becomes of interest to the student of the history of civilization so soon as we set out to trace it to its beginnings. Then much that was unintelligible becomes clear, and new light is thrown upon many a popular custom. The following is intended as a modest contribution on the subject of the symbolism of the shoe.

Our first source of information concerning the shoe is the Bible. Here the shoe partakes of the character of the profane, symbolizing the Earthly in contrast with the Holy. Removing the shoes signifies putting off something profane, obligatory upon those who approach the Holy. 'Put off thy shoes from off thy feet, for the place whereon thou standest is holy ground', is the command to Moses (Exod. 3. 5). The Levites, whose function it was to carry the vessels of the Tabernacle, were required to take off their shoes while performing this holy service.¹ The priests likewise had to be barefooted when performing their service in the sanctuary; ² this regulation has in part continued to be observed to this very day on the occasion of the Priestly

¹ Num. r. sect. 5: במה היה שבטו של לוי מעולה? שישראל היו מהלכים לבושים סנדלים, אבל שבטו של לוי שהיו טעונים בכלי המשכן היו יחפים. הרי למדנו שה' שבטו של לוי מעולה מכל השבטים.

² Exod. r. sect. 2: וכן הכהנים לא שמשו במקדש אלא יחפים.

Blessing pronounced on festivals. As a matter of reverence, no one with his shoes on should set foot upon the hill in Jerusalem whereon the temple had stood in bygone days.³ This explains the custom current in some localities until the late middle ages, that no one was to enter the synagogue with shoes on.⁴ Only with bare feet should one draw near to a place dedicated to God.⁵

The shoe denotes supreme power and possession. 'Den Pantoffel schwingen' is a well-known proverbial expression marking off the shoe as the symbol of power. And another adage, in which likewise the shoe is represented as the embodiment of power, says: 'As long as thy foot is shod tread the thorn.' The shoe thus is accorded an importance equalling that of the foot. The foot signifies domination: 'Thou madest him to have dominion over the works of thy hands; thou hast put all things under his feet' (Ps. 8. 6). Hence the victor puts his foot on the vanquished to symbolize the victory which has been won: 'Put your feet upon the necks of these kings' (Josh. 10. 24) was the order of Joshua to his victorious warriors in order to indicate that the enemy had been defeated for all time to come.⁶ And

³ Comp. Berakot 54 a; Yebamot 6 b; RmBM., *Bet ha-Behira* 7. 12.

⁴ עין או"ת מה"רם מיינץ ס' ל"ח „ומהאי טעמא (הנוכר בברכות דף נ"ד וביבמות דף ו') יש ארצות שאין מתפללים רק יחפים בלי מנעלים. וזכרני כשהייתי פה בק"ק במבערג בימי חורפי שהי' תקנה ע"פ גדולים שלא ישא' סנדלים לב"ה." ועין גידמון, התורה והחיים III, צד 78.

⁵ Ex. r. II, 13: „כל מקום שהשכינה נגלית אסור בנעילת הסנדל"

⁶ Joshua 10. 24-5: ויקרא יהושע אל כל איש ישראל ויאמר אל קציני אנשי המלחמה ההלכוא אתו קרבו שימו את רגליכם על צוארי המלכים האלה ויקרבו וישימו את רגליהם על צואריהם. ויאמר אליהם יהושע אל תיראו ואל תחתו חזקו ואמצו כי ככה יעשה יהוה לכל אויביכם אינר אתם נלחמים איתם.

just as the foot symbolizes power, so also does its gear, the shoe. Of the hero Joab King David says: 'And put the blood of war upon his girdle that was about his loins, and in his shoes that were on his feet.'⁷

The shoe thus characterizes the successful warrior. But it also denotes victory in a different battle, the battle for right and possession. A purchase becomes legal when the seller takes off his shoe and hands it over to the buyer. This ceremony indicates the transfer of possession to the new possessor. The same holds true of the redemption of property by one's kinsman, and also of transactions of barter: 'This was the manner in former time in Israel concerning redeeming and concerning changing, for to confirm all things; a man plucked off his shoe, and gave it to his neighbour: and this was a testimony in Israel.'⁸

With the ancient Teutons likewise removing the shoe meant the transfer of power and symbolized the dissolution of property and inheritance.⁹

According to a haggadic narrative Mordecai established his right of dominion over Haman by producing a shoe on which was found a written statement by Haman to the effect that he had sold himself as a slave to Mordecai.¹⁰

⁷ 1 Kings 2. 5: וְגַם אַתָּה יָדַעְתָּ אֶת אֲשֶׁר עָשָׂה לִי יוֹאָב בֶּן צְרוּיָה אֲשֶׁר עָשָׂה לִשְׁנֵי שָׂרֵי עֲבֹאוֹת יִשְׂרָאֵל לְאַבְנֵר בֶּן נֵר וְלַעֲמִשָּׂא בֶן יִתְרִי וְיֶהֱרֹגִים . . . וַיִּתֵּן דָּמִי מִלְחָמָה בַּחֲנוּרָתוֹ אֲשֶׁר בִּמְתָנָיו וּבִנְעָלוֹ אֲשֶׁר בְּרִגְלָיו. Comp. also Schlesinger, *Geschichte des Symbols*, p. 235: 'The removal of girdle and shoes is a symbol of conditional and unconditional surrender.'

⁸ Ruth 4. 7: וּזֹאת לַפְּנִים בְּיִשְׂרָאֵל עַל הַנְּאוּלָה וְעַל הַחֲמוּרָה לְקִים כָּל דְּבַר שְׁלֹף אִישׁ נָעָלוֹ וְנָתַן לְרַעְיוֹ וּזֹאת הַתְּעוּדָה בְּיִשְׂרָאֵל. Comp. also b. Kiddushin 60 a.

⁹ Grimm, *Deutsche Rechtsaltert.*, p. 156.

¹⁰ Ag. Est., ed. Buber, V, 60: "מִיד כָּתַב הָמָן עַל סַנְדֵּל מִרְדֵּכָי: אֲנִי הָמָן הָאֲנִי עֲבָדוֹ שֶׁל מִרְדֵּכָי הַיְּהוּדִי שֶׁנִּמְכַּרְתִּי לוֹ בְּכֶכֶר לֶחֶם אַחַת."

In a well-known case the shoe is removed from a person in order to indicate that he has lost his authority over a member of his family. When a man dies without issue, his wife takes off the shoe from the foot of her husband's brother,¹¹ showing that henceforth he shall have no claim upon his sister-in-law's hand. The man without a shoe is the symbol of him that is incapacitated for marriage, while the shoe, on the other hand, marks off the aspirant to marriage.¹²

The shoe means possession in a larger sense: offspring, land. Moses lacked two things, land and children who would walk in his footsteps, hence the command to him is: Take off thy shoes (in the plural); but Joshua, though childless, entered the land, hence it is said of him: Take off thy shoe (in the singular).¹³

To loosen a person's shoe-strings, to carry his shoes after him, as the carrying of garments¹⁴ in general, is equivalent to subjugation. The master gains authority

ובשעלה לבסוף לגדולה וקבע את עצמו עבודה זרה והי' מרדכי יושב בשער המלך שהוא יוצא ובא בו וכשהוא ראה את המן שעובר הוא פושט לו את רגלו בסנדל ששטר לקחתו כתוב בו והי' המן רואה ומתמלא חמה⁹.

¹¹ Comp. Deut. 25. 9.

¹² Comp. b. Kiddushin 49 a: מסני דרב מכרעאי לא בעינא.

¹³ Comp. Midrash, *Sehel Tob*, to Exod.: לפי שמושה רבנו לא זכה לשני: „דברים לא לבניסח הארץ ולא לבנים עומדים על מדרגתו, לכך נאמר בו של נעליך לשון רבים דהיינו שני נעלים. אבל יהושע נאמר בו של נעליך בלשון יחיד לפי שזכה לכנס לארץ אבל לא זכה לבנים עומדים על מדרגתו. See further חסרות ויתרות, ed. Wertheim, p. 50: ואמר במושה של נעליך ונאמר ביהושע של נעליך לפי שלא נכנס משה לא"י ולא ירשו בניו מקומו.

¹⁴ See b. Erubin 27 b: מובילנא מאני'.

over his servant as soon as the latter loosens his shoe-string.¹⁵

To cast the shoe at a person is a sign of disrespect. The strong commit this act against the weak. 'Over Edom will I cast out my shoe' (Ps. 60. 10) God is made to say by the Psalmist. Like the glove¹⁶ in later times, and the shoe of the league among the peasants,¹⁷ so also transmitting the shoe serves as a challenge to fight and as a token of subjugation. 'Powerful kings in ancient times used to send their shoes to their inferiors as a sign of subjection. The shoe had to be carried on the shoulder as a mark of humility.'¹⁸

In the language of the Bible and the prophets the term shoe-string or shoe is also employed to express something petty and of little value. Abraham, who refuses to accept the least thing from the King of Sodom, says: 'I have lift up my hand (to swear) . . . that I will not take from a thread even to a shoelatchet, and that I will not take any thing that is thine' (Gen. 14. 23).^{18a} Samuel likewise, in defending his honesty as a judge, protests that he had taken neither silver . . . nor shoes.¹⁹

¹⁵ Comp. b. Kiddushin 22 b: *מיציד בחוקה התיר לו מנעלו*.

¹⁶ Comp. Nork, *Realwörterbuch*, s.v. Schuh.

¹⁷ 'The peasants employed the tied shoe, the union shoe, as a symbol of revolt', Schlesinger, *l.c.*, p. 236.

¹⁸ Grimm, *Deutsche Rechtsaltert.*, p. 156.

^{18a} Gen. 14. 23: *אם מחוט ועד שרוך נעל*. The poet Moses Dar'i (9th cent.) likewise says of the insignificant price of the pen: *שרוך נעל* (Pinsker, *קדמוניות*, p. 12').

¹⁹ In accordance with Ben Sira of the Septuagint 46. 19 where Samuel is made to say: *χρήματα καὶ ἕως ὑποδημάτων ἀπὸ πάσης σαρκὸς οὐκ ἔλγηφα*. On the other hand, the greedy prophet has sandals and entrails presented to him: 'Whoever comes first as an interpreter of my verses, to him give new sandals . . . and fill his hand with entrails' (Aristophanes, *The Birds*, ll. 972-5).

To sell a person for shoes means to abandon him for a mere nothing, to tread upon him, as it were, with the shoe. When the prophet Amos reproves the judges in Israel who sell the poor for shoes,²⁰ he means to say in the first place that they wrest the judgement of the poor for a small bribe, but at the same time he wishes to emphasize symbolically that the poor is trodden upon 'like the dust of the earth'. The shoe which the corrupt judge receives is the symbol therefor. As men tread with the shoe upon the dust of the earth, so they (the unjust judges) desire to tread upon the head of the poor.²¹

The shoe as a symbol of somebody being trodden is found also among the Rapajutes in the following case: 'The Rapajutes let the criminal ride on a donkey through the city with a wreath of sandals around his neck.'²²

In disputes the term shoe designates an insult in the highest degree. Thus the Arab women, in their mutual quarrels and altercations, call to one another: *سرمتی علی* 'My shoe upon thy head'.²³ This derogatory exclamation characterizes the authority of the one over the

The Indian teacher, after the distribution of the Samāvartana sacrament, receives shoes as an honorarium (Glaser, 'Der Indische Student', *ZDMG.*, LXVI, 28).

²⁰ Amos 2. 7: על מכרם בכסף צדיק ואביון בעבור נעלים. Comp. also Yalkut to ויטב and פרקי דר"א: כסף צדיק ואביון בעבור נעלים. Note also the piyyut in allusion to this agada: *לאורחות ישמעאלים* (אלה אוכרה in מוסף ליו"כ): סחרוהו בעד נעלים נתנוהו.

²¹ *Ibid.*, 2. 8: היטואפים על עפר ארץ בראש דלים.

²² Comp. Nork, s. v. Schuh.

²³ Similarly, Gen. 3. 15: הוא יטופך ראש ואתה תטופני עקב.

other, who is to come under her shoe. To come under the shoe or to lick somebody's shoe exemplifies slavish subjection,²⁴ while handing a shoe to a person should be construed more in the sense of devotion. Thus the son hands the shoes to his father, and similarly the pupil to his teacher.²⁵ The custom among the Sarmatae to toast the beloved by drinking from her shoe is likewise to be construed as an act of homage.^{25a}

The dependence of the son upon the father and of the pupil upon his teacher is expressed by the formula that the father or teacher strikes the son or pupil with the shoe.²⁶ Conversely, a woman who threatens to strike her husband with the shoe wants to emphasize her authority and independence.²⁷ In certain cases the woman has a right to hit

²⁴ Esther 1. 8: **כי מי אני אשר לא אשתחוה להמן על תשועת עמך** 'ישראל, כי לוחך הייתי מנעל רגליו'. In striking resemblance is the custom to kiss the slipper of the Pope. In the same connexion I wish to call attention to a passage in Aristophanes (*The Acharnians*, ll. 300-1), where the enemy is threatened with being cut up into shoe-soles: 'For I hate thee still more than Cleon, whom I will cut up into shoe-soles for the Knights.'

²⁵ p. Shabbat VI, 1 (p. 8a): **שמעון בר בא הוה משימ קומיה ר' יוחנן** וְהוה מושיט ליה סנדליה.

^{25a} Comp. also Goethe, *Wahlverwandtschaften*, p. 258 (ed. Kurz, vol. VI): 'Ein schöner Fuss ist eine grosse Gabe der Natur . . . Noch immer möchte man ihren Schuh küssen und die zwar etwas barbarische, aber doch tiefgefühlte Ehrenbezeugung der Sarmaten wiederholen, die sich nichts besseres gönnen, als aus dem Schuh einer geliebten und verehrten Person ihre Gesundheit zu trinken.'

²⁶ Comp. b. Moed katon, p. 25a: **טפח ליה אביה בסנדליה**. Similarly, Nork, s. v. Schuh: 'Not until the end of his term of apprenticeship is the Brahman pupil permitted to wear shoes, for these are signs of independence.' Comp. also Glaser, 'Der Indische Student', *ZDMG.*, LXVI, 25: 'He (the Indian student) should not approach him (the teacher) with his shoes on.'

²⁷ Aristophanes, *Lys.* 658 **τῷ δέ γ' ἀψήδα πατάξω τῷ κοθόρῳ ἐν ᾧ γνάθον**.

her husband with a shoe. In a portion of Russia it is customary for a woman who is insulted and called indecent to strike her shoe in the face of her insulter.

As a symbol of contempt for one and esteem for the other the terms sandal, shoe-latchet, shoe-sole, and shoe generally, are employed by both Arabs and Jews in certain turns of speech. The Arab Bedouin, when separating from his wife, says: 'I have thrown away my slipper.'²⁸ The eastern Jew often expresses his appreciation in the following words: 'He (resp. you, &c.) is not worthy to loosen his shoe-strings;²⁹ he has more sense in his shoe-soles than you in your head;³⁰ he is as wise as my shoe-sole.'³¹

A woman scorns a Rabbi by telling him that her father's shoe was worthier than his entire family.³² In Palestine the word shoe or shoemaker serves as a disgrace. When somebody mentions 'shoemaker' in his conversation it is always with the addition: Far be it (this handiwork) from you. Never is the word used in a favourable sense. It is considered a great dishonour to be dubbed 'shoe'.³³

²⁸ Nork, s. v. Schuh.

²⁹ Comp. besides Luke 3. 16 *ἐρχεται δὲ ὁ ἰσχυρότερός μου, οὗ οὐκ εἰμὶ ἱκανὸς λύσαι τὸν ἱμάντα τῶν ὑποδημάτων αὐτοῦ*.

³⁰ Literally: **ער האם מעהר שכל אין דער פידעושווע וויא די אים קאפ**.

³¹ Literally: **ער איז קליג וויא מיינ פידעושווע**. Comp. also the Rumanian popular expression: 'vita incaltata' (a shod animal), which resembles the Hebrew **בהמה בעזרת אדם** applied to simpletons.

³² **עין „לקט הקמח“ בשם הרי"ן: „החכם שנדה את האשה וב' על שוללה אותו ונגעה בכבודו, העזה פניה ותאמר לו שהמנעל של אביה הי' חשיב יותר מכל משפחתו“**.

³³ See Luncz, **לוח א"י**, p. 47: **המנעל ועושהו נחשבים אצל אזרחי הארץ למושגים של גנאי, עד כי בהזכירם את השם סנדלר, הם מוסיפים דרך כבוד: בעיד מנר, לאמר רחוק ממך או לא עליך. ולעולם**

'Fine feathers make fine birds' is a proverb frequently cited; while Homer says: 'Through handsome garments one obtains favourable repute among the people.'³⁴ In Biblical literature, to mention but one example, we find a similar attitude in the exhortation: 'Let thy garments be always white.'³⁵ In the Talmud, besides clothes in general which, according to Ben Sira, illustrate the worthiness of man,³⁶ special emphasis is laid on foot-gear. In the shoe the value of man finds its expression.³⁷ 'Only he who has shoes is a man.' The slave goes barefoot. One should sell everything in order to obtain shoes,³⁸ for he who walks barefooted is placed in ban by God.³⁹

When putting on shoes a certain blessing is required.⁴⁰ There is likewise a definite prescription for the manner in which to put on or take off the shoes. In putting on shoes the right foot has the precedence, while in taking them off the left foot comes first.⁴¹ Especially important is the foot-gear of women. Moral motives were responsible for these sayings. While it is said of the vestments of women in

לא יעלו את השם נעל על דל שפתם עם איזה מושג של שבת, ולעלבון גדול יחשב לאיש בהקראו בשם נעל.

³⁴ Comp. Homer, *Odyssey* vi, ll. 29-30:

Ἐκ γάρ τοι τούτων φάτις ἀνθρώπους ἀναβαίνει
ἔσθλη.

³⁵ Eccles. 9. 9: בכל עת יהיו בגדיך לבנים.

³⁶ Comp. ענג שבת (Frankfurt a. M., 1700) where it is cited in the name of Midrash Tanhuma: אדם וחרר בני אלקים בני אדם וחרר בני אדם כסותו. See Zunz, *Gottesdienstliche Vorträge*, p. 104.

³⁷ Comp. b. Shabbat 122: מנעליה ברגליה בר אניש.

³⁸ b. Shabbat 129 a: לעולם ימכור אדם קורות ביתו ויקנה מנעלים לרגליו.

³⁹ b. Pesahim 113 b.

⁴⁰ b. Berakot 60 b.

⁴¹ b. Shabbat 61 a, and *Derek. Eres*, ch. 10.

general: 'With her dress a woman removes also her decorum';⁴² the Rabbis went even farther in considering as a transgression the baring of only certain parts of the body. Attention should therefore be paid to the foot-gear of women, especially those living in cities. Thus, while the man in the country was permitted (on the basis of an oath) to forbid his wife the wearing of shoes for a period of three months, this prohibition was valid only for twenty-four hours in the case of a city resident.⁴³

As a whole the woman enjoyed more liberties than man with respect to foot-gear. Thus the male had the same shoes for week-days and sabbaths,⁴⁴ for father and child;⁴⁵ furthermore, he is to wear a pair of shoes seven years.⁴⁶ Not so the female, who was at liberty to obtain a pair of shoes for each of the three holidays.⁴⁷ These regulations, as indicated above, were dictated by moral motives. Hence the song of the royal bard on the feet of Zion's daughters: 'How beautiful are thy feet with shoes' (Cant. 7. 1), provokes the censure of the Haggadist: 'Such eulogies are not fit even for an ordinary man.'⁴⁸

Nevertheless attention was paid to the aesthetic needs of women with regard to the cover of the foot. Apart from

⁴² Herodotus, I, 1. 17.

⁴³ p. Ketubbot, VII, 31 b: בכפרים יכול הבעל להדיר את אשתו שלא תנעול מנעל עד ג' חדשים, אבל בכרכים רק מעת לעת.

⁴⁴ p. Shabbat, VI, 8 a: לאו אורחי' דבר נשי' מחוי ליה תרין סנדלין: חד לחולא וחד לשובתא.

⁴⁵ b. Shabbat 112 a: רב סלא הוה ליה ההוא זוגא דסנדלי זמנין דנפיק ביה ינוקיה.

⁴⁶ b. Gittin 68 b: שמעיה ליהווא גברא דהוה קאמר לאושכפא עביר לי' מיסאני לשב שני.

⁴⁷ b. Ketubbot 65 b.

⁴⁸ Cant. r. 7: אפילו הדיוט מקלם בלשון זה ננאי הוא לו.

the shoes common to both men and women, which, be it remembered, were not without gold ornaments, there was already at the time of the Talmud a distinct fashion for feminine shoes.⁴⁹

As in the case of women, there are also special prescriptions for the foot-gear of scholars. While, on the whole, a person wearing shoes that have been patched is equal to the barefooted, this is especially true of the learned. It is unworthy of a scholar to walk the street with patched shoes.⁵⁰

The scholars who used to mourn for Jerusalem, known by the name אבלי ירושלים⁵¹ and distinguished through their exterior apparel, also wore shoes of a black colour. As a token of mourning the shoes as well as the latchet were black.⁵² Only the worthiest could make use of this foot-wear. Unknown people were forbidden to wear such shoes, and when they were found doing so were subject to punishment.⁵³

As a rule shoes were black, latches white. This was

⁴⁹ b. Shabbat 141 b: לא תצא אשה במנעל המרופט, on which comp. Hirschberg, *Heatid*, IV, 51: מוזהבים גם מוזהבים: והתקשמו במנעלים אשר יש שהיו גם מוזהבים: • • • אולם כבר נמצא גם מנעל מיוחד והיו משותפות בהם עם הגברים • • • לנשים • • • סנדל האשה היו מורבים במוך.

⁵⁰ b. Ber. 43 b: גנאי לת"ח שיצא במנעלים המטולאים בשוק.

⁵¹ Comp. J. Klausner in *Haomer*, II, 9.

⁵² Tosafot Baba ḥamma 59 b, s. v. הוה: ומסאני אוכמי דהבא ודמס': תענית היינו המנעל והרצועות הכל הו' שחור.

⁵³ b. Baba ḥamma 59 a-b: אליעזר זעירא הוה מרים מסאני אוכמא • • • אשכחוהו דבי ריש גלותא וא"ל מאי שנא הני מסאני? א"ל דקא מאבילנא אירושלים. א"ל את השיבת לאתאבולי אירושלים? סבור יהורא הוה אתיוה וחבשוה.

the Jewish custom.⁵⁴ In order to escape the persecutions of non-Jews,⁵⁵ it was permitted to wear also black latches,⁵⁶ 'so as not to be recognized as Jews'. On the other hand, if a Jew is requested 'openly' to wear his shoe-latches in accordance with non-Jewish fashion, he must under no conditions yield to this request.⁵⁷

Another phase of the shoe which deserves attention is the interchange of shoes in putting them on. Thus the doctors of the Talmud made it their practice on holidays to put the right shoe on the left foot and the left shoe on the right foot.⁵⁸

Various symbolic effects are attached to the state of being barefoot. Fugitives and captives go without shoes. King David removes his shoes as he flees before his son Absalom.⁵⁹ The prophet Isaiah is ordered by God to go barefoot⁶⁰ as a symbol of the capture of Egypt and Cush by Assyria. 'And the Lord said, Like as my servant Isaiah hath walked naked and barefoot three years for a sign and wonder upon Egypt and upon Ethiopia; so

⁵⁴ See Tosafot, *l. c.*: ואומר ר"ת דהמנעל הי' שהור והרצועות לבנות. On the various kinds of shoes, comp. b. Yoma 78 a-b: תוספות ישנים, *s. v.* בין לר' מאיר.

⁵⁵ b. Taanit 22 a: א"ל מה טעמא ראמית מסאני אוכמי? א"ל עיילנא. ונפיקנא ביני עכו"ם כי היכי דלא לידעו דיהודאא אנא שינו עטיפתם. As to change of clothes in order to avoid danger, comp. Gen. r., sect. 82: בשעת השמר.

⁵⁶ Tosafot, *l. c.*: ותענית היינו המנעל והרצועות. הכל היה שחור.

⁵⁷ b. Sanhedrin 74 b.

⁵⁸ b. Taanit 12 b: מרימר ומר זוטרא מחלפי דימינא לשמלא ודשמלא לימינא.

⁵⁹ 2 Sam. 15. 30: ודוד עולה ובוכה . . . והוא הולך יחף.

⁶⁰ Isa. 20. 2: ונעלך תחלוך מעל רגלך.

shall the king of Assyria lead away the Egyptians prisoners, and the Ethiopians captives, young and old, naked and barefoot.' ⁶¹

The removal of shoes symbolizes, as already mentioned, resignation and loss. At the decease of a near relative, such as parents, children, or brothers and sisters, the wearing of shoes is suspended for seven days. The same observance holds true with reference to mourning in a wider sense. Thus on the ninth day of Ab, which is observed as a fast-day in memory of the destruction of the Jewish state, it is likewise forbidden to wear shoes. The same is also true of the Day of Atonement, when Israel prays for forgiveness, for life.

Every great disaster which befell the people was indicated by the removal of shoes. Dearth of rain caused the sages of the Talmud to take off their shoes as a sign of universal mourning.⁶² One doctor of the Talmud is famed for having obtained the object of his prayer with only one shoe off, when rain began to come down.⁶³

The removal of shoes designating loss and suffering, it becomes evident why the carrying off of shoes by the dead appearing in dreams forebodes evil and disaster.⁶⁴ For the

⁶¹ Isa. 20. 3-4: ויאמר יהוה כאשר הלך עבדי ישעיהו ערום ויחף שלש שנים אות ומופת על מצרים ועל כוש. כן ינהג מלך אשור את שבי מצרים ואת גלות כוש נערים וקנים ערום ויחף.

⁶² b. Taanit 24 b.

⁶³ *Ibid.*: רב יהודה כי הוה שליף חד מסאנא אתי מטרא. Owing to a superstition it is forbidden among the Arabs to walk with only one sandal: 'Do not walk with one sandal in the manner of the devil' is one of the commandments in the *Kitāb ākāmi* 'l-murgāni (quoted from a review by Nöldeke in *ZDMG.*, LXIV, 444).

⁶⁴ b. Berakot 54 b: כל דשקיל שכבא מעלי בר ממשאנא וסנדלא. In Germany a superstition prevails that a guest must not be presented with

same reason the retention of shoes after death is considered by some people as a favourable symbol. This custom was known already at the time of the Talmud,⁶⁵ and has been preserved until this very day among the Jews of Tripoli.⁶⁶ It was familiar also to the ancient Norsemen.⁶⁷

Widespread is the custom of offering gifts to the bride. The bridegroom gives presents to the bride. This custom is rooted in antiquity: it probably dates from the time when woman was still considered the personal property of the husband. This state is expressed symbolically by the present which the bride receives from the bridegroom,⁶⁸ and is borne out especially by the circumstance that the present consisted mostly and still consists of shoes. Such was the use among the ancient Lacedaemonians,⁶⁹ and so, as we shall see further on, it has been preserved among other nations until this day. The shoe proclaims symbolically: The man is the ruler in his house. 'The government of the house was assumed literally the moment the man set his foot upon that of his bride; the slipper furnished the symbol for it'.⁷⁰ In handing the shoe to the bride the

shoes lest he should depart soon and never return. (Fischer, 'Die Quitte', *ZDMG.*, LXVIII, 298.)

⁶⁵ p. Kilaim IX, 32 b: ויהבין חוורין אלבישוני חוורין ויהבין ר' יוחנן הוה מפקד אלבישוני חוורין ויהבין. מסאני ברנלי.

⁶⁶ Comp. אפריקה של אפריקה in *Hamebaser*, Constantinople, 1910, p. 204: עוד מנהג במקום הזה: המת יקובר יחד עם כל הנעלים: שהיו שייכים לו.

⁶⁷ See Nork, *s. v.* Schuh.

⁶⁸ Comp. Bebel, *Die Frau und der Sozialismus*, p. 33: 'Symbolic for the acquisition of woman as property is also the present which the bridegroom still offers to the bride in all the civilized countries.'

⁶⁹ Comp. S. Fl. Marianu, *Nunta la Romani* (Hymeneal Customs among the Rumanians), Bucharest, 1890, pp. 258-9.

⁷⁰ Schlesinger, *l. c.*, p. 331.

bridegroom considers himself as her conqueror. Mighty kings sent their shoes to inferiors as a sign of subjection,⁷¹ while, according to an old German practice, the bride considers herself subject to the bridegroom the moment she puts on the shoe which he gave her as a gift.⁷² Accordingly the man is the shoe which the woman has to wear.

This symbolic designation for the man is not unknown to the Talmud. A woman, according to one passage,⁷³ may annul a contracted marriage if it is found out that her husband occupies a higher rank and station than the one she believed him in originally. She may say: 'I have no use for a shoe that is too large for my foot.'

While the transmission of the shoe to the wife signalizes the assumption of the rights of the husband, the man who allows himself to be dominated by his wife is stigmatized by the nickname 'man of the slipper', that is, not the wife but the husband wears the shoes which should be worn by her as a token of his power. He is the subjected party. As a Yiddish adage has it: 'Az dus weib geht im spodek, geht der mann in pantofel.'⁷⁴

As a rule, therefore, the woman must wear the slipper or shoe which her husband has bestowed upon her. The shoe must be neither too small nor too large for the foot. As mentioned above, the woman may say of her unevenly contracted marriage: 'I have no use for a shoe that is too large for my foot',⁷⁵ while, on the other hand,

⁷¹ Grimm, *l. c.*, p. 156.

⁷² Grimm, *l. c.*; Nork, *s. v.* Schuh.

⁷³ b. Kiddushin 49 a: מִסְתַּנֵּחַ דְּרַב מְכַרְעִי לֹא בְעִינָא. Comp. hereon Horace, *Epistulae* i. 10. 42:

Cui non conveniet sua res, ut calceus olim,
Si pede maior erit, subvertet.

⁷⁴ Comp. Bernstein, *Jüdische Volkssprichwörter*, p. 88.

⁷⁵ See above, note 75.

Aschenputtel becomes the bride of the king's son after it is found out that the golden slipper presented to her by the prince fits her foot. The fitting shoe decides the right choice.

Rucku di guck! Rucku di guck!
 Kein Blut in Schuck.
 Der Schuck ist nicht zu klein,
 Die richtige Braut, die führt er heim.⁷⁶

Among a portion of the Palestinian Jews it is customary to make sure of the fitting of the bride's shoes, and for that purpose the bridegroom sends the cobbler to his bride's house. Simultaneously with this ceremony the day of the wedding is determined upon.⁷⁷

In general, however, little importance is attached to the fitting of the shoe. The main thing is that the bride, and also her relatives, are presented with shoes. That also the relatives of the bride are presented is probably due to that ancient custom according to which the kin of the bride should appear in the same dress as the bride herself. Thus among the ancient Greeks the bridesmaids had to be dressed in exactly the same manner as the bride. Says Athene to Nausicaa :

Nausicaa, has thy mother then brought forth
 A careless housewife? Thy magnificent robes
 Lie still neglected, though thy marriage day
 Is near, when thou art to array thyself

⁷⁶ Grimm's *Märchen*, Aschenputtel.

⁷⁷ Luncz, "לוח א"י, תרס"ט, p. 12: בשבועים לפני החתונה ישולח החתן לבית הכלה רצען לתפור לה מנעלים כדי מרתה וזה סימן כי זמן החתונה הוקבע.

In seemly garments, and bestow the like
On those who lead thee to the bridal rite.⁷⁸

It is a practice among the Sephardic Jews that the bridegroom, before the wedding, bestows shoes upon the bride and certain members of her family.⁷⁹ The handing over of shoes to the bride immediately before the wedding is related by Gregory of Tours.⁸⁰ In Teheran the bridegroom, soon after his engagement, sends shoes to the bride, her mother, and her sisters.⁸¹

The Russian peasants employ the boot as a symbol in choosing a bride. As soon as the son makes known his preference for a girl, the father, on a Sunday, orders his son to bring his two boots, one after the other. In one of them he had placed (some time previously) a handful of oats. 'If the son brings this one first, it is a sign that the alliance will be successful and blessed. If, however, the son seizes the empty one of the prophetic boots, fate wills it that the chosen girl cannot be his.'⁸²

Among the Rumanians⁸³ the bridegroom transmits

⁷⁸ *Odyssey* vi, ll. 25-9:

Ναυσικῆα, τί νύ σ' ᾧδε μεθήμονα γείνατο μήτηρ;
εἵματα μὲν τοι κείται ἀκηδέα σιγαλόεντα,
σοὶ δὲ γάμος σχεδὸν ἔστιν, ἵνα χρὴ καλὰ μὲν αὐτὴν
ἔνυσσθαι, τὰ δὲ τοῖσι παρασχεῖν οἷ' κέ σ' ἄγανται.

⁷⁹ See *מחיי הכפרדים* by א'למלוח in *Hashiloah*, XXIV, 267: לעת ערב: לפני החתונה שולח החתן לארוסתו נעלים ולכל המשפחה.

⁸⁰ Comp. his *Vitae Patrum*, ch. XX, cited by S. Fl. Marianu in his *Nunta la Romani*, pp. 58-9.

⁸¹ *Revue des Écoles de l'Alliance Isr.*, for 1901, p. 166: 'Le jeune homme envoie aussitôt à sa fiancée, à la mère et à chacune des sœurs de celle-ci une paire de souliers'; comp. also M. Grunwald, *Mitteilungen*, &c., XX (1906), 132.

⁸² 'Russische Sitte' in Wolfgang Menzel's *Morgenblatt* for 1838, p. 635.

⁸³ Marianu, *Nunta la Romani*, p. 239: 'Mirele cumpera si pereche de

shoes to the bride and to her mother, or, when the latter is not alive, to her representative ; while among the Bulgars the bridegroom has to bestow shoes upon all the members of the bride's family.⁸⁴ In many localities of Italy slippers are sent instead of shoes.⁸⁵

Finally, mention must be made of the custom current among English-speaking nations to throw slippers after a newly-married couple departing for their honeymoon. This custom is in vogue even among the highest circles of society,⁸⁶ which, however, did not deter an American mayor from prohibiting further exercise of the practice.⁸⁷

This prohibition calls to mind a similar decree issued in 1690 especially against the Jews of Hesse. Here, too, it was customary for the bridegroom to bestow slippers upon the bride and her family on the day of the wedding. The Hessian diet considered this an extravagance not permitted to the Jews, which should be opposed as extravagance in dress generally. The diet therefore issued an order that the gifts should be limited to the bride only, and should consist only of a pair of shoes and slippers. This custom has been preserved up to the present among the Jews in

papuci san crobote pentru . . . mama miresei, car daca mama acesteia nu traeste, apoi pentru cea ce o suplineste.'

⁸⁴ 'Volks- und Familienleben in Bulgarien', *Sarajevoer Tagblatt* for Aug. 15, 1913.

⁸⁵ Comp. Marianu, *l. c.*

⁸⁶ *Neue Freie Presse* for July 9, 1913 (No. 17556): '... Thus the family of the whilom English Consul-General Crave preserves a ball shoe of white silk and with gold embroidery, which the Prussian crown-princess, later Empress Frederick, removed from her foot in order to throw it into the carriage of her court maid, who had just been married to Joseph Crave.'

⁸⁷ *Ibid.* : 'In Portsmouth, Ohio, the mayor and the chief of police issued an edict, according to which the police are authorized to arrest every person who strikes newly-wed people on the back, or hurls rice upon them, or throws old shoes after them.'

Hesse, where the bridegroom, on the wedding day, gives to the bride a pair of shoes as 'סבלנות'.⁸⁸

The shoe is also the symbol of courting and fertility. Among the English-speaking nations⁸⁹ rice and slippers are thrown after the betrothed couple as a sign of fertility, while, according to a Jewish-mystic interpretation, the biblical phrase: 'Take off thy shoes' (in the plural) designates Moses, who was the father of two sons.⁹⁰

In order to attract man, the women of antiquity used to expose their ankles,⁹¹ while Greek women employed the shoe as a means of embellishment. If a woman was of small stature she padded the shoe with cork in order to appear taller ; if, on the contrary, she was too tall she put on flat shoes.⁹² Clemens Alexandrinus relates likewise 'that by means of characters imprinted in the sandals they indicated by footprint a rendezvous to their lovers'.⁹³ The Haggadah also mentions this practice. In commenting on Isa. 3. 16 Rabbi Jose remarks : 'The picture of a serpent was impressed upon the shoe ; the Rabbis, however, have

⁸⁸ Comp. Munk, 'Die Judenlandtage in Hessen-Cassel', *Monatsschrift für die Wissenschaft des Jud.*, XLI, 520.

⁸⁹ See above, note 87.

⁹⁰ Comp. משה שקים פ"ו נאמר בו של נעליך : משה *s. v.* ילקוט חרש.

⁹¹ Comp. *Heatid*, IV, 52, n. 1; also Herodotus, I, 395: 'The women (of the *Gidans*) wear many leather bands around their ankles, for the following reason, it is said: Every time a man knows her she attaches a band around her ankle.'

⁹² Comp. *Heatiā*, IV, 50, where Hirschberg points out a parallel passage in Lev. r. sect. 16: כשהיתה אחת תעכסנה. בלוד וטפוף תלכנה וברגלים תעכסנה. כשהיתה אחת תעכסנה. כדי שתה' נראית יפה, וכשהיתה אחת מהן קצרה היתה לובשת קורדקין עבין ומביאה שתי קצרות ומהלכת ביניהן, כדי שתה' נראית ארוכה.

⁹³ Comp. Nork, *s. v.* Schuh.

this to tell: The wanton daughters of Zion used to place in the heels of their shoes the stomach of a cock filled with odoriferous oil; and whenever a host of youths passed by, they pressed their foot on the sweet-scented oil, so that the odour produced confusion among the youths like the venom of serpents.'⁹⁴

As a symbol of love we also find 'the flowered shoe of the bat' in the Chinese folk-song: 'Bat, bat, with flowered shoes, accompany us—the little girl yonder will be the wife, and I the husband.'⁹⁵

The bride herself, as a rule, puts on the shoe given to her as a gift. Yet in the poem of King Rother the suitor orders one gold and one silver shoe to be forged, and he dresses the bride's feet which lie in his lap.⁹⁶ In Berry the bride used to stand barefooted before entering the church for the wedding. The relatives endeavoured in vain to have her put her shoe on, since this could only be done by the bridegroom.⁹⁷

In general, as already mentioned,⁹⁸ the putting on and removal of the shoes has to proceed according to definite

⁹⁴ Lam. r., IV: וברגלים תעכסנה, ר' יוסי אומר שהיתה צרה צורת דרקון על מנעלה ורבנן אמרי שהיתה מביאה זפק של תרנגול וממלא אותו אפרסמון ונותנה אותה בין עקבה למנעלים וכשהיתה רואה כת של בחורים היתה דופקת עליו והי' אותו הריח מפעפע בהן כאותו ארס של עכנא.—As to the serpent being a symbol of fertility, comp. Rubin, *Agada u. Kabbala*, pp. 18–19, and on the cock, p. 23. Comp. also Koran, Sura 24.

⁹⁵ *La Revue*, March 1, 1913, p. 98: 'Chauve-souris, chauve-souris aux souliers fleuris, accompagnez-nous, la petite fille que voilà sera la mariée et je serai le mari.'

⁹⁶ Nork, s. v. Schuh.

⁹⁷ Marianu, *Nunta la Romani*, pp. 258–9: 'In Berry miresa statea eu piciorule goale coud sosea timpul sa mearga la biserica si rudele si cercan in Zador sa o incalta. Numai mirele isbutea.'

⁹⁸ Comp. above, p. 9.

prescriptions. In this connexion many mystic conceptions grew up concerning the importance of the feet and shoes. Thus it is said of Enoch that he effected the union of the upper worlds and knew how to keep the evildoers from himself through being a shoemaker.⁹⁹ We find further in a mystic book that the feet need special protection against the pernicious influences from the outside (הצונית), since they (the feet) represent the 'lower wisdom'. This protection is afforded by the shoes just as the Tephillin indicate the light of the face. On account of this similarity between Tephillin and shoes the left shoe is to be fastened first.¹⁰⁰

'Civilized people lose easily their religion, but rarely their superstitions', says Karl Goldmark somewhere. The superstition concerning the shoe has come down to our own days, and we meet it even among the educated classes of society. Says Dr. J. Kohler, professor in the University at Berlin: 'My superstition is prognostic throughout; I place much

חנוך לא ה' מצוה אלא ז' מצות בני :אלוה' s. v. ולקוט חרש⁹⁹ נח והי' מתחלה חסיד מחסדי או"ה, אלא שפרש מדרכיהם והלך בדרכי ישראל כמו שאינו מצוה ועושה או בעין גר צדק שבכל דור ודור ונתקבל במעלה העליונה לאות ולמופת לבני שת מה מתוקן להם אם ייטיבו דרכיהם וכיון שעלה שוב לא ירד. והנה סביב למחנהו רשעים יתהלכון המבקשים להפריד ח"ו והוא ה' תופר מנעלים לקשר העולמות.

לקוטי הלכות על ש"ע א"ה לבעל לקוטי מהר"ן, צד ז': שצריך¹⁰⁰ לנעול של ימין תחלה ולקשור שמאל תחלה ולמדו מתפלין . . . כי המנעלים הם שמירה לרגלין, כי ברגלין צריכין לשמור ביותר מן החצונים הסמוכים אליהם. ר' הרגלים הם בח' חכמה תתאה בח' תכלית הצמצומים שצריכים לחתכם מהר' מלכויות ולהעלותן לבח' אור הפנים שבששל רגלים. ומשם נמשכין בח' המנעלים שהם שומרים את הרגלין מן חצונים וזהו כתפלין שהם אור הפנים כידוע כך מנעלים, כי משם נמשך בח' המנעלים שהם בח' השמירה לרגלין וע"כ בקשירה שמאל תחלה כמו התפלין.

weight upon the right or the left shoe being put on first, because I imagine that otherwise something uncanny would happen'; while Tilla Burieux, the actress, states in an interview that she is very careful not to place her shoes on the table, because it signifies 'certain stuttering'.¹⁰¹

Concerning the laying on of the left shoe the following belief prevails in Ansbach: 'If the bride lets the bridegroom buckle on her left shoe, she will rule in the house.'¹⁰²

With reference to worn shoes the Chinese say: 'He who wears his hat sideways, has a lazy wife; and he who has worn shoes on, has a gluttonous wife.'¹⁰³

Finally, mention must be made of the superstition prevailing among a considerable part of the French people, according to which the preservation of the bridal shoe guarantees a happy conjugal life.¹⁰⁴

¹⁰¹ *Berliner Tageblatt* for May 11, 1913 (No. 235).

¹⁰² Nork, s. v. Schuh.

¹⁰³ J. Banzemont, 'Enfants Chinois', *La Revue*, March 1, 1913, p. 102: 'Si vous portez votre chapeau sur le col vous avez une femme paresseuse, dit-on, si vous portez un habit crasseux et des souliers éculés vous avez une femme qui aime à manger.'

¹⁰⁴ *Revue des Deux Mondes*, Jan. 1911, p. 146: 'Garder les souliers avec lesquels on s'est marié, c'était s'assurer des chances de faire bon ménage.'

MIDRASH AND MISHNAH

A STUDY IN THE EARLY HISTORY OF THE HALAKAH

BY JACOB Z. LAUTERBACH, Hebrew Union College.

II

WE have seen above that the name 'Soferim' designates a class of people who occupied themselves with 'the Book' and taught from that 'Book' alone. This name has been applied to the earliest teachers of the Halakah, because they imparted all their teachings in connexion with the Book of the Law, either as an exposition of it or as a commentary on it, that is to say in the form of the Midrash. This, we have seen, is asserted by tradition and agreed upon by almost all the modern scholars. There is absolutely no reason for assuming that any of the teachers belonging to the group of the Soferim, whether the earlier or later, departed from this peculiar method of teaching. For the name Soferim was given to the teachers because of this method of teaching and continued in use only as long as they adhered exclusively to this method. As soon as the teachers ceased to occupy themselves exclusively with the Book of the Law and its exposition and began to teach abstract Halakot also, the name applied to them was no longer Soferim but 'Shone Halakot' or Tannaim (see especially J. Brüll, *Mebo ha-Mishnah*, Frankfurt a. M., 1876, II, p. 2). The haggadic saying of Rabbi

Abahu²⁶ (in Yerushalmi Shekalim V, 1, 48 c) which Weiss and Oppenheim cite as a proof of their contention that the Soferim taught abstract Halakot in the Mishnah-form, does not refer to the Soferim at all. It does not say anything about their methods or form of teaching. It refers to the Kenites, who in 1 Chronicles 2. 55 are identified with the families of Soferim, the inhabitants of Yabez, the Tir'atim, the Shim'atim, and Sukatim. In all these names the Haggadah seeks to find attributes for the Kenites, indicating some of their peculiar characteristics. R. Abahu here gives an haggadic interpretation of the name Soferim applied to the Kenites in the same fanciful manner as the other names, Tir'atim, Shim'atim, and Sukatim are interpreted in Sifre, Numbers 78 (Friedmann 20 a).

Oppenheim advances still another argument to prove that the Soferim taught abstract Halakot. Since many of the traditional laws designated as *למשה מסיני* must have been transmitted by the Soferim, it follows (so Oppenheim) that the Soferim taught independent traditional laws in Mishnah-form. This is not at all convincing. Granted that there were such unwritten laws handed down from Moses to the Soferim, and that these formed part of their religious teachings, it does not necessarily follow that these traditional teachings

²⁶ The passage in p. Shekalim reads as follows: אמר ר' אבהו כתיב: ומשפחות סופרים יושבי יעבין מה תלמוד לומר סופרים אלא שעשו את התורה ספורות ספורות ה' לא יתרומו חמשה דברים חייבים בחלה וגו' והטיבו אישר דברו.

Weiss (*Dor*, I, p. 66) refers to this saying in the words: בזה חכמי התלמוד (ירוש' שקלים) שהסופרים עשו את התורה ספורות ובירושלמי אמר ר' אבהו: שהיו קורין אותן סופרים לפי שעשו את התורה ספורות כגון ה' לא יתרומו וגו'. Both of them erroneously take this haggadic saying as a characterization of the methods of the Soferim and as a reason for their name.

were given in the Mishnah-form. They could as well have been given as additional laws in the Midrash-form, together with the scriptural passages with which they had some sort of relation, though not based on or derived from them.²⁷ It is therefore absolutely certain that the change in the form from Midrash to Mishnah was not made during the period of the Soferim.

The period of the Soferim came to an end with Simon the Just I about 300–270 B.C. In Abot 1, 2 he is designated as being ‘of the last survivors of the men of the great Synagogue’, which means that he was the last of the Soferim. During the time of this Simon the Just I, who still belonged to the Soferim, there could have been no Mishnah. We have, therefore, to look for the origin of the Mishnah-form in the times after Simon I, that is, after 270 B.C. We have thus gained at least this much. We have fixed the *terminus a quo*, the beginning of the period during which the innovation of the Mishnah-form could have been made. We have now to find the *terminus ad quem*, namely, the last possible date for the introduction. In seeking to determine this latter date, the only proper way would be to find the oldest authentic Halakah mentioned in talmudic literature without its scriptural proof, that is, in the Mishnah-form. In determining the date when

²⁷ If, for instance, the regulations about the colour of the thongs and the form of the knot of the phylacteries were traditional laws given to Moses on Sinai, ה"ל מ"מ, as is claimed by some of the Rabbis of the Talmud (Menahot 35 a, b), these could have been nevertheless taught together with the passage in Deut. 6. 8. The teachers could have stated that the commandment ‘and thou shalt bind them’ is explained by tradition to mean, first, to tie them only with black thongs, רצועות שחורות; and second, that the phylacteries must be square, מרובעות; also that the knot must be of a certain shape; and lastly, that the letter Shin, ש, must be impressed on the outside, &c., &c.

such a Halakah was given, we shall *eo ipso* have determined the date when the change in the form had already been made and the Mishnah-form was already in use. This seems to be the simplest and only logical method of procedure. Strange as it may seem, this method has not been followed by any of the scholars who have attempted to solve our problem.

The first teacher in whose name we have independent Halakot is Jose b. Joezer,²⁸ who died about 165 B.C.²⁹ The sayings of Simon the Just and Antigonus (Abot 1, 2, and 3) are merely wisdom maxims and not halakic teachings. Connected with the name of Jose, however, we have three halakic decisions mentioned without any scriptural proof, i.e. in Mishnah-form (Mishnah Eduyot VIII, 4). The authenticity of these Halakot is not to be doubted. They are certainly decisions given by Jose ben

²⁸ Frankel's statement, **כי הלל ושמואי הם הראשונים אשר על שמם באו**, that 'Hillel and Shammai were the first teachers in whose name Halakot are mentioned in the Mishnah and Baraita' (*Hodegetica*, p. 38) is, to say the least, surprising. We find Halakot from all the four preceding Zuggot. Thus a Halakah is mentioned in the name of Shemaiah and Abtalion concerning the quantity of 'drawn water' (**מים שאובים**) that is sufficient to disqualify the Mikvah (Eduyot I, 3), not to mention the Halakot in regard to the slaughtering of the passover sacrifice on sabbath which Hillel is said to have received from them and taught in their name (p. Pesahim 33 a and b. Pesahim 66 a). Simon b. Shetaḥ mentions a law in the name of the **חכמים** in regard to the punishment of false witnesses (Makkot 5 b). From Joshua b. Perahia we have a Halakah in regard to wheat brought from Alexandria (Tosefta Makshirin III, 4), and in the name of Jose b. Joezer we have the three Halakot (M. Eduyot VIII, 4).

²⁹ The date of Jose's death can only be approximated. He died when Alcimus was still in power (see Genesis r. LXV, 22). Probably he was among the sixty men whom the Syrian general Bacchides killed at the instigation of Alcimus (1 Mac. 7. 16). Alcimus died 160 B. C. (see Büchler in the *Jewish Encyclopaedia*, I, 332-3).

Joezer.³⁰ In the form in which they are preserved they have already been taught by his colleagues or disciples. Thus we find that in the last days of Jose b. Joezer or soon

³⁰ Jose b. Joezer's authorship of these Halakot was first questioned by Dr. Jacob Levy in *Ozar Nehmad*, III, p. 29. In the course of his discussion, however, Levy arrives at the conclusion that these Halakot were really given by Jose b. Joezer of Zeredah. Following Levy's first suggestion, Graetz (*Monatsschrift*, 1869, pp. 30-31) and after him Büchler (*Die Priester und der Cultus*, p. 63) assume that these three Halakot belong to some later teacher whose name was likewise Jose b. Joezer, although such a teacher is otherwise not known. There is, however, no necessity for seeking any other author than the well-known Jose b. Joezer of Zeredah who is expressly mentioned in our sources. The fancied difficulties of ascribing the decisions to Jose b. Joezer of Zeredah disappear on close examination. The main difficulty is said to be the difference in time between the date of Jose and the date of the Eduyot-collection. How could Jose b. Joezer of Zeredah, who died before 160 B. C., have testified before the teachers in Jabneh about 100 C. E. on that memorable day when Gamaliel II was deposed from the presidency, and when according to a talmudic report (*Berakot* 27b) the Eduyot-collection was arranged? Were this a real difficulty, it could easily be removed by assuming with Levy (*op. cit.*, p. 36) that the word מִשְׁוֹם 'in the name of' was left out in our Mishnah, and that the text ought to read הָעֵיד מִשְׁוֹם רַבִּי יוֹסִי בֶן יוֹעֶזֶר אִישׁ צְרִידָה 'A teacher testified in the name of Jose b. Joezer of Zeredah'. However, no real difficulty exists. The theory that all of the Halakot contained in our Eduyot-collection are testimonies that were deposed before the teachers at the assembly at Jabneh, cannot be maintained. Our Eduyot-collection contains other Halakot than those testified to before the assembly at Jabneh. It contains also Halakot that were not even discussed at that assembly. To the latter class belong the three Halakot of Jose b. Joezer (see H. Klueger, *Ueber Genesis und Composition der Halakoth-Sammlung Eduyoth*, Breslau, 1895). It is not necessary to assume, as Klueger (*l. c.*, p. 84) does, that these decisions had been found in written form in the archives. These Halakot were simply known to the teachers just as the other sayings and teachings of the Zugot were known to them. They had been transmitted orally and studied by heart, and at the time when the Eduyot-collection was composed or redacted, these three Halakot were incorporated in it. Compare also Hoffmann in his commentary on Mishnah Eduyot, *ad loc.*

The other difficulties in these three Halakot will be considered later in the course of this essay, when we come to the discussion of the Halakot themselves.

after his death some Halakot were already taught without any scriptural proof, that is, in the Mishnah-form. Accordingly we have found the *terminus ad quem* for the innovation of the Mishnah-form.

We now pass to a consideration of the particular point of time in this period when the new form was introduced. We have good reasons for believing that these decisions of Jose are not only the first mentioned, but in all likelihood the first ever taught in Mishnah-form. Indeed, a reliable report in the Talmud, as well as certain indications in gaonic traditions, points to the last days of Jose as the time when the change in the form of teaching was made. This talmudic report is given in Temurah 15 b by Samuel, but it is undoubtedly an older tradition which Samuel merely reported. It reads as follows: ³¹ כל אשכולות שעמדו להן לישראל מימות משה עד שמת (ימות?) יוסי בן יועזר היו למדין תורה כמשה רבינו מבאן ואילך לא היו למדין תורה כמשה רבינו 'All the teachers who arose in Israel from the days of Moses until the death, or the last days, of Jose b. Joezer studied the Torah as Moses did, but afterwards they did not study the Torah as Moses did'. The discussion that follows in the Talmud endeavours to explain the meaning of this report. Here we learn that the report was not understood to mean that the teachers until the time of Jose's death were in possession of as many laws as Moses had. Nor was it understood to say that they were all of one opinion and had no doubtful or disputed Halakot. The report, so the discussion ends, can only be understood to say that they taught in the

³¹ The correction suggested by Graetz (*Monatsschrift*, 1869, p. 23) to read יוסי עד שמת 'till the days of Jose', instead of יוסי עד שמת יוסי 'till Jose died', is very plausible.

same manner in which Moses taught, מִיּוֹמֵר הָיוּ גְמִירֵי לָהּ, כַּמֶּשֶׁה.

We are not told what this method was and what it means to study or teach in the manner of Moses, but it is evident that this method can only be the Midrash-form. To give all the Halakot as interpretation of the written word means to study or teach like Moses did. Assuming, as the Rabbis did, that all the interpretations given in the Midrash are correct explanations and definitions of the written Law, all the teachings given in the Midrash-form were really contained in the words of Moses. And Moses must have taught them in the same manner in which they are taught in the Midrash. For Moses must have read to the people the written laws and interpreted the full meaning of each and explained each passage or each word of the Torah. That the phrase 'to study in the manner of Moses' is used to indicate the Midrash-form, can also be seen from another passage in the Babylonian Talmud. In Yebamot 72 b we read that Eleazar b. Pedat refuted an opinion of R. Johanan by quoting a scriptural passage and giving an interpretation to it. R. Johanan, thinking that R. Eleazar, in his argument, was making use of an original interpretation, characterizes his method in these words: רֵאִיתִי לְבֵן פֶּדַת שׁוֹשֵׁב וְדוֹרֵשׁ כַּמֶּשֶׁה מִפִּי הַגְּבוּרָה: 'I see that the son of Pedat studies in the manner of Moses'. Simon b. Lakish, however, informs R. Johanan that this argument was not original with R. Eleazar, but was taken from a Midrash-Baraita in *Torat Kohanim*, as it is indeed found in our Sifra (*Tazria* I, Weiss 58 b). We see, thus, that to study or teach in the Midrash-form, as is done in our Sifra, is characterized as being 'in the manner of Moses' (יֹשֵׁב וְדוֹרֵשׁ כַּמֶּשֶׁה). The report in *Temurah* 15 b,

accordingly, tells us that until the death or the last days of Jose all the teachers taught in the Midrash-form, which is called 'in the manner of Moses'.³²

This seems also to have been the tradition among the Geonim, though for reasons of their own they did not care to express themselves distinctly about this question. We

³² This report in the Talmud might perhaps be confirmed by the report about the religious persecution in the time of Antiochus Epiphanes. Among the many prohibitions against Jewish religious practices devised by the Syrian ruler for the purpose of estranging the Jews from their religion, which are mentioned by the authors of the Books of Maccabees (1 Macc. ch. 1, and 2 Macc. ch. 6), we do not hear of any special prohibition against teaching the Law, as was the case in the Hadrianic persecutions (b. Abodah zarah 17b-18a, compare Graetz, *Geschichte*, IV, 4, pp. 154 ff.). On the contrary, we learn from the saying of Jose b. Joezer, who lived at that time, that no such prohibition was enacted. For Jose said, 'Let thy house be a meeting-place for the wise: sit amidst the dust of their feet, and drink their words with thirst' (Abot I, 4). Evidently the wise teachers could meet unmolested in private places, and could impart their religious teachings. Yet there is no doubt that the aim and the tendency of the Syrian government were to suppress the religious teachings and to make the Jews forget their Law. We hear that the Books of the Law were rent in pieces and burned with fire, and that the king's command was that those people with whom the Book of the Law would be found should be put to death (1 Macc. 1. 56-7; Josephus, *Antiquities*, XII, 3, § 256). Evidently the persecutors believed that to burn the books of the Law and to punish any one who possessed them was sufficient to prevent the study of the Law. This was a very correct surmise. Since all teachings were given in the Midrash-form, that is, as an exposition and explanation of the Book of the Law, it followed that to take away the Books of the Law meant to effectually prevent any religious instruction. It was to meet this peculiar situation that Jose uttered his wise saying. Inasmuch as many of the Books of the Law were burnt, and as it was extremely dangerous to use those that had been secretly saved, Jose advised the people to make every home a place where the wise teachers might meet, and where one might listen to their words of instruction even without books.

These peculiar conditions may in some degree have helped to accustom the teachers to impart religious instruction altogether apart from the Book of the Law, namely in Mishnah-form.

have seen above that Sherira, in describing the period during which the Midrash-form was in exclusive use, employs the term *מעיקרא במקדש שני*, but does not define how long this 'earlier period of the second Temple' lasted. However, we shall arrive at a more exact interpretation of this vague term by comparing its usage in a responsum of R. Zemah Gaon. In this responsum³³ the following statement occurs: *כל משנה שהיו ישראל דורשין במקדש סתם היה ולא היה בו שם חכם* 'All the traditional law (משנה is here used in its broader sense) which they used to teach in the Midrash-form, *שהיו דורשין*, in the time of the Temple, was anonymous, and no individual teacher is named or connected therewith'. The time which Zemah Gaon has in mind and which he designates as *במקדש* cannot include the whole period of the second Temple. Many names of individual teachers living in the time of the second Temple are preserved to us together with their teachings, and these names were no doubt already mentioned in the collections of Halakot that existed in Temple times. R. Zemah Gaon can only refer to the time before Jose b. Joezer, when, indeed, no individual names were mentioned in connexion with the halakic teachings, the latter being

³³ This responsum is quoted by Epstein in his *Eldad ha-Dani*, pp. 7-8, and more fully in Jellinek's *Beth Hamidrash*, II, pp. 112-13. We shall discuss it in detail later on in the course of this essay. Zemah's statement that Eldad's Talmud followed the custom of old when they taught the Halakah without mentioning the names of individual teachers, finds corroboration in the manner in which the halakic teachings as quoted by Eldad were introduced. According to Eldad all the halakic teachings were introduced with the phrase *אמר יהושע מפי משה מפי הגבורה*. This phrase, like the phrases *יושב ודורש כמשה מפי הגבורה* and *למדין תורה*, would well describe the older Midrash-form, in which all teachings were given in the name of Moses, i.e. as interpretations of the very words of Moses.

given as interpretations of the Scripture (שהיו דורשין), that is, in the Midrash-form. It is most probable that Sherira by the term מעיקרא במקדש refers to the same period which Zemah Gaon designates as במקדש, that is, to the time before Jose b. Joezer. We can therefore reasonably conclude that the new form of teaching the Halakah, i.e. Mishnah-form, was first made use of in the closing days of Jose b. Joezer.³⁴

We have, now, to ascertain the reason for the introduction of a new form of teaching the Halakah alongside of the older form. Having fixed the time, we must now inquire into the conditions of that time, to see if we cannot find in them the reason for the innovation. An examination of the conditions that obtained during the period under consideration reveals the fact that many great changes had taken place in the life of the Judean community. We notice the presence of various new tendencies. The people's outlook upon life and their regard for the law had considerably changed. Even among the teachers and leaders we find new and divergent attitudes towards the Law of the fathers on the one hand and towards the new ideas and tendencies on the other hand. All these changes were brought about by the one radical change in the political condition of the people, resulting from the passing of Judea from Persian

³⁴ It is perhaps for this very reason that the teachers until the time of Jose were called אשכולות. This is correctly interpreted by Samuel in the Talmud (Temurah 15 b and Soṭah 47 b) to mean איש שהכל בו, viz. that each man spoke only the opinion of the whole group and that the group spoke for each man, in the sense that the teachers acted as a body, not as individuals. The report that the Eshkolot ceased with the death of Jose b. Joezer, משמת יוסי בן יעזר בטלו האשכולות, means therefore that this concerted action of the teachers ceased with Jose, and after him they began to mention Halakot in the name of individual teachers.

to Greek rule. This great political change caused the interruption of the activity of the Soferim as an authoritative body of teachers. This interruption of the activity of the Soferim which was coincident with the death of Simon, the last member of that body, in the course of time led to a departure from the methods of the Soferim and necessitated the introduction of a new method of teaching the Halakot, namely, the Mishnah-form. In order to prove this, we must first review the conditions that prevailed in the time of the Soferim and examine the methods of the Midrash used by them.

As said above, the Soferim taught the people only the Book of the Law, ספר התורה, with such interpretations and explanations as they could give to it. Their exegetical rules and Midrash-methods, simple as they were, were nevertheless sufficient for their purpose, which was to give all the halakic teachings in connexion with the written Law. There was no reason whatever to make any change in the form of teaching, and there was absolutely no need to teach anything else besides the Book of the Law and its Midrash. The stream of Jewish life, during the period of the Soferim, moved on smoothly and quietly, without any great changes. Under the Persian rule the Jewish people were merely a religious community, at the head of which stood the high-priest,³⁵ who was the highest religious authority. The conditions which prevailed in this community during the last days of the Persian rule were almost the same as in the earlier days, when the community was first organized by the exiles

³⁵ This was the case, at any rate, in the second half of the Persian period. See Wellhausen, *Israelitische und Jüdische Geschichte*, 3rd edition, pp. 198 ff., and Schürer, *Geschichte*, II, 4, pp. 267 ff.

who returned from Babylon. The Book of the Law accepted from Ezra by these early founders and organizers with the few simple interpretations given to it by the Soferim, was therefore sufficient for almost all the needs of the community throughout the entire Persian period. Of course, some slight changes in the conditions of life must have developed in the course of time. These changes in the inner life of the community probably brought new religious customs. The same changes probably required certain modifications in the interpretation of some of the written laws or even the introduction of new laws and new practices. All these necessary modifications and even the few new laws the Soferim could easily read into the written Law by means of interpretation, or even embody the same in the Book by means of some slight indications in the text itself. Thus they found in the Book of the Law all the teachings they required.

The Soferim were able to do this because they were also the actual scribes whose business it was to prepare copies of the Book of the Law. If they desired to teach a certain law, custom, or practice, because they considered it as part of the religious teachings, although it could not be found in, or interpreted into, the Book of the Law, they would cause it to be indicated by some slight change in the text.³⁶ For instance, by adding or omitting a letter,

³⁶ As we have received the Torah from the Soferim and only in the textual form in which they cast it (not considering some slight changes and additions that may have been made in the period after the Soferim, see below, note 43), it is impossible now to ascertain the full extent of the changes and corrections made by the Soferim in the original text of the Law. However, there is no doubt that the Soferim did change and correct the text of the Torah which they originally had. A tradition to this effect was current among the Rabbis of the Talmud. The Rabbis often refer to such changes as 'correc-

or by the peculiar spelling of a word they could bring about

tions of the Soferim', תיקון סופרים (Genesis r. LIX, 7 and Exodus r. XIII, 1) or קנה סופרים (Leviticus r. XI, 5). They enumerated many passages in the Scriptures which in their present form represent the corrected readings introduced by the Soferim (Sifre Numbers, § 84, Friedmann, p. 22 b, and Mekilta, *Beshallah*, *Shirah*, VI, Weiss, pp. 46 b-47 a). In Tanhuma, *Beshallah* 15 (on Exod. 15. 7) it is expressly stated that all these corrections were made by the Soferim, the Men of the Great Synagogue, תיקון סופרים אנשי אלאשכינו פסוקים אלו אנשי כנסת הגדולה ולכך נקראו ; כנסת הגדולה סופרים. Even if it should be granted that these statements in the Tanhuma are of later origin (see R. Azariah de Rossi, *Meor Enayim*, *Imre Binah*, ch. XIX), it cannot be disputed that the interpretation of the term תיקון סופרים as referring to the corrections made by the Soferim, who were identified with the Men of the Great Synagogue, is correct. This is confirmed by the fact that the same corrections, which in the Midrashim are designated as תיקוני סופרים, are designated in the Massorah, *Oklah We-Oklah* (No. 168, ed. Frensdorf, p. 113), as 'corrections made by Ezra' (י"ח מלין תיקון עזרא), who was the first of the Soferim. If this tradition about the תיקוני סופרים conflicts with the later conception of the Rabbis, namely, that the entire Torah is from God, and that the one who maintains that there are some verses in the Torah which were not spoken by God, is a despiser of the word of God (Sanhedrin 99a), this does not argue against the correctness of this tradition, as R. Azariah de Rossi (*l. c.*) assumes. On the contrary, this conflict speaks in favour of our tradition. For it proves that the tradition about the תיקוני סופרים was too well-known a fact to be suppressed by later dogmatic views. All that the later teachers could do was not to deny the fact that changes were made in the text but merely to avoid too frequent mention of it. When forced to mention the fact they pointed to a few harmless changes and omitted (as in Sifre and Mekilta) the direct reference to the Soferim as the authors of these corrections (compare Weiss, *Middot Soferim*, to Mekilta, p. 46 b). It was probably on account of such considerations that the reference to the Soferim, the Men of the Great Synagogue, was omitted from the passage in Tanhuma, in those old copies which R. Azariah de Rossi (*l. c.*) reports to have seen. The statement in the Tanhuma expressly ascribing the corrections to the Soferim, the Men of the Great Synagogue, is accordingly not of later origin, as R. Azariah assumes. The omission of this reference from certain copies was due to a later hand.

Although the corrected passages pointed out by the Rabbis do not deal with the Law, we may safely assume (notwithstanding Weiss, *l. c.*) that the Soferim corrected even the legal portions of the Pentateuch. A correction of the Ketib לא into the Kere לו (Levit. 11. 21) certainly affected the Law.

the desired result.³⁷ They did not hesitate to do so, because they did not in any way change the law as they understood it. The changes and corrections which they allowed themselves to make in the text were of such a nature that they did not affect the meaning of the passage, but merely gave to it an additional meaning, thus suggesting the law or custom which they desired to teach. In this manner they succeeded in grafting upon the written Law all these newly developed laws and customs which they considered genuinely Jewish. Even if the Soferim had desired to introduce a new religious practice or to teach a new law which could not be represented as an interpretation of the Law nor indicated in the text, they would not have been compelled to change their usual form of teaching. They could still have taught that law or custom together with the passage of the written Law with which it had some distant connexion, offering it as an additional law or a modification of the practice commanded in the written Torah. Thus, throughout the entire period of their activity the Soferim who, no doubt, formed some kind of an authoritative organization with the high-priest as its head, remained true to their name, and continued to teach only the Book of the Law with its interpretation—Midrash—and nothing else.

That the activity of the Soferim as an authoritative

This change, like most of the Kere and Ketib, originated with the Soferim, according to the talmudic tradition (Nedarim 37 b). The later teachers, for obvious reasons, would not mention the corrections made by the Soferim in the legal parts of the Pentateuch, as it would have cast unfavourable reflections on the authority of the Law and the validity of the Halakah.

³⁷ For illustrations of this method of the earliest Midrash to indicate Halakot in the text itself, see the writer's article 'Midrash Halakah' in the *Jewish Encyclopedia*, VIII, pp. 579 ff.

body of teachers ceased with the death of their last member, Simon the Just I (about 270 B.C.) has already been shown. It was the change from the Persian to the Greek rule that caused the interruption of the activity and ended the period of the Soferim. The change in the government brought about many other changes in the conditions of life and in the political status of the people. These, in turn, influenced the religious life and the communal institutions, and had their effect also upon the activity and authority of the teachers. All these changes in the inner life of the community did not come to pass immediately after the people came under Greek rule, for a people cannot be quickly transformed by mere external influences. It was through a long process, lasting about half a century, that these changes were gradually effected. During the lifetime of Simon the Just, the new influences had not yet overthrown the authority and the leadership of the Soferim as an organized body of teachers. Simon who enjoyed the high respect of the people could maintain the old order even under the changed conditions by the very influence of his great personality. Being the high-priest and the respected leader of the people, he still preserved the authority of the teachers, and under his leadership they continued some of their usual activities. But with the death of Simon all the influences of the new order of things made themselves felt. The activity of the teachers as an authoritative body ceased. Even the authority of the High-priest was undermined. He was no more the highest authority of a religious community and its chief representative. Other people assumed authority over the community. Laymen arose who had as much influence among the people and with the government as the High-priest, and they became leaders.

The people who had now been in contact with Greek culture for half a century, acquired new ideas and became familiar with new views of life, other than those which they had been taught by their teachers in the name of the law of their fathers. The rich and influential classes accepted Greek ideas and followed Greek customs. The leaders of the people were no longer guided by the laws of the fathers, nor was the life of the people any longer controlled solely by the laws and customs of the fathers as contained in the Torah. The teachers were no longer consulted upon all matters of life, as they had been in former days, when, with the High-priest at the head of the community, they formed an authoritative body. Consequently, the interpretation and the development of the laws of the fathers did not keep pace with the rapid changes and developments in the actual conditions of life. The changed conditions of the time brought forth new questions for which no decisions were provided in the laws of the fathers, and no answers could be found even in the interpretations and traditions of the Soferim, because such questions had never before arisen. These questions were decided by the ruling authorities who were not teachers of the Law, and in some cases probably by the people themselves. These decisions, presumably, were not always in accordance with the principles followed by the teachers of the Law. The decisions in new cases, given by ruling authorities, and answers to new questions, fixed by popular usage, became in the course of a few decades the established practices of the people. This development ensued because the people could not distinguish between decisions derived from the Law by interpretation, and decisions given by some ruling authority, but not based upon any law or

tradition of the fathers. Neither could the majority of the people distinguish between generally accepted customs that had been recently introduced, and such as had been handed down by the fathers. To the people at large who were not concerned about historical and archaeological questions, both were alike religious customs sanctioned by popular usage.

Thus many new customs and practices for which there were no precedents in the traditions of the fathers and not the slightest indication in the Book of the Law, were observed by the people and considered by them as a part of their religious laws and practices. No attempt was made to secure the sanction of the authority of the Law for these new practices in order to harmonize the laws of the fathers with the life of the times. The few teachers (disciples of the Soferim) were the only ones who could perhaps have brought about this harmonization. By means of interpretation they might have found in the Book of the Law some support for the new practices, and they might have grafted the new and perhaps foreign customs upon the old, traditional laws of the fathers. But these teachers had no official authority; they were altogether disregarded by the leaders and ignored by a large part of the people.

The fact that there was no official activity of the teachers, in the years following the death of Simon the Just, is borne out even by the alleged traditional report given in Abot I. The Mishnah, despite its anxiety to represent a continuous chain of tradition and to maintain that the activity of the teachers had never been interrupted, yet finds itself unable to fill the gap between Simon the

Just I and Antigonos.³⁸ It does not mention the name of even one teacher between the years 270 and 190 B. C., that is, between the latest possible date of Simon's death and the time of Antigonos. Evidently tradition did not know of any teacher during that period. This would have been impossible if there had been any official activity of the teachers in those years.

³⁸ It is impossible to bridge over the gap in the succession of teachers as given in the Mishnah. It is evident that Antigonos could not have been the successor of Simon the Just I, and the immediate predecessor of the two Joses. Halevi's arguments (*Dorot Harishonim*, I, ch. xii, pp. 198 ff.) are not convincing. The Mishnah speaks of the two Joses as contemporaries. As such they are also referred to Shabbat 15 a. We cannot for the purpose of upholding the other tradition, namely, that there was an uninterrupted chain of teachers, deny this explicit report and make of Jose b. Johanan a colleague of Antigonos and a man older by a full generation than Jose b. Joezer. If Antigonos had been the pupil and successor of Simon the Just I, as Halevi (*l.c.*) assumes, he could not have been succeeded directly by the two Joses. We would then have a gap between 250 B. C., the date when Antigonos the pupil of Simon the Just I must have died, and 180 B. C., the time when the two Joses must have begun their activity. In spite of all the pilpulistic arguments of Halevi against Frankel, it is evident that the latter is right in assuming that Antigonos did not directly succeed Simon the Just I (*Hodegetica*, p. 31). If we still desire to consider the report in the Mishnah as correct, we must interpret it to mean that Antigonos succeeded Simon the Just II (see Weiss, *Dor.* I, p. 95) and not the last member of the Great Synagogue who was Simon the first (against Krochmal, *More Nebuche Hazeman*, pp. 52 and 174). Indeed, the wording in the Mishnah seems to indicate this. For if the Mishnah meant to say that Antigonos succeeded that Simon the Just who is mentioned in the preceding paragraph of the Mishnah and designated as the last member of the Great Synagogue, it would have said *קיבל ממנו*, as it uses in the following passages the phrase *קיבל משהם*. The specific mention of the name in the statement *קיבל משהם הצדיק* evidently shows that it was another Simon who is here referred to as the one who preceded Antigonos. This can only be Simon the Just II. At any rate, it is certain that after Simon I there came a time when there was no official activity of the teachers. Even the later tendency to reconstruct the chain of tradition, such as we have in the report in the Mishnah Abot, could not succeed in finding the name of a single teacher who flourished in the period between Simon I and Simon II (see IV).

Even in those days, there were without doubt some teachers who preserved the traditional teachings of the Law. There were some people who remained faithful to the laws and the traditions of the fathers, and among them some who studied the Law in the manner in which it had been taught by the Soferim. However, these teachers had no official authority. It was merely in a private capacity that they delivered their teachings to those who wished to follow them. However, absence of official authority not only did not prevent but even helped the activities of the teachers to become of great consequence for future developments. It brought about two great results which later became the most important factors in developing the Halakah and in shaping the Jewish life. In the first place, it brought about the popularization of the study of the Law and paved the way for the rise of teachers not of the priestly families. In the second place, it preserved the text of the Book of the Law in a fixed form, which resulted in giving this text a sacred, unchangeable character.

In the days of the Soferim, when the High-priest was the head of the community, and when the teachers under his leadership formed an official body vested with authority to arrange all religious matters in accordance with the Law as they understood it, the knowledge of the Law was limited to the priests who were the only official teachers.³⁹

³⁹ The Soferim, up to the time of the death of Simon the Just I, were mostly, if not exclusively, priests. See my *Sadducees and Pharisees*, p. 6. Compare also Schürer, *Geschichte*, II⁴, pp. 278-9, 373-4, and 455, and R. Smend, *Die Weisheit des Jesus Sirach* (Berlin, 1906), p. 346. Smend, however, goes too far in assuming that even as late as the beginning of the second century B. C. all the teachers of the Law were priests. This is not correct. In the middle of the third century B. C., after the death of Simon

On the one hand, the priests who were in possession of the law and tradition of the fathers considered the teaching and interpreting of the religious law as their priestly prerogative. They would therefore not impart to the lay people a thorough knowledge of the Law so that they too could become teachers.⁴⁰ This would have resulted in curtailing their own special privileges, a sacrifice which priests are not always willing to make. On the other hand, the people had no impetus to study the Law because they could rely on the authority of their official teachers in all matters religious. They were satisfied that 'the lips of the priest should keep knowledge and that they should seek the Law at his mouth', and get from him decisions concerning all the questions of life. But when the authority of the High-priest as the ruler of the community was gone, and the priestly teachers also lost their official authority, the study of the Law was no longer the activity of an exclusive class of official teachers. A knowledge

the Just I, there were already many lay teachers. In the beginning of the second century B.C. they already possessed great influence and were members of the Gerousia. The description of the Soferim as sitting in the senate and knowing the Law, which is given in Sirach 38, refers to both lay- and priest-teachers.

⁴⁰ The saying 'Raise many disciples', which is ascribed by the Mishnah (Abot I) to the Men of the Great Synagogue, does not argue against this statement. It can be interpreted to mean either to raise many disciples among the priests who should carry on the activity of teaching, or to educate many pupils in a knowledge of the religious law, but not to make them authoritative teachers. However, it is very probable that the later teachers ascribed to the early Soferim a motto which they thought the Soferim should have promulgated. As the fact of their being priest-Soferim was forgotten, the later teachers ascribed to them their own democratic tendencies. These tendencies were against the monopolization of the knowledge by the priests, and in favour of spreading the knowledge of the Law among the people at large.

of the Law and the traditions of the fathers no longer gave its possessor the prerogative of sharing in the administration of the community. At the head of the community now stood political leaders who arranged communal affairs according to standards of their own.

The study of the Law now became a matter of private piety, and as such it was not limited to the priests. On the one hand, the priests no longer had any interest in keeping the knowledge of the Law jealously to themselves, as it did not bring them any special privileges. For such influence as the priests still had was theirs, not because they knew or taught the Law, but because they were the priests, in charge of the Temple, and members of the influential aristocratic families.⁴¹ They therefore had no hesitancy in imparting a knowledge of the Law to the lay people. It must be kept in mind that there were at all times some true and faithful priests to whom their religion was dearer than personal advantages and family aggrandizement. These priests were now very eager to spread religious knowledge among the people. On the other hand, the lay people were now more eager than formerly to acquire such knowledge. Since there was no official body of teachers to decide authoritatively all religious matters, the pious man who cared for the Law had to be his own religious authority. He therefore sought to acquire a correct knowledge of the laws and the traditions of the fathers. This resulted in the gradual spread of a knowledge of the Law among the pious laymen, and in the rise of lay teachers who had as much knowledge of the Law as the priestly teachers themselves. These new teachers soon claimed for themselves the

⁴¹ See below, note 50.

religious authority which was formerly the prerogative of the priests.

For about half a century, during the ascendancy of the power of the political leaders, these teachers, laymen, and priests had no recognized authority. They were not consulted as to the regulation of the communal affairs, and not called upon to answer questions resulting from the changed conditions of life. They therefore contented themselves with merely preserving the Law and the traditions that were left to them from the past, without trying to develop them further or add to them new teachings of their own. Accordingly, they continued to teach the text of the Book of the Law with the interpretations given to it by the Soferim and the Halakot, which the latter indicated in or connected with the text of the Law. They did not forget any of the interpretations or teachings of the Soferim.⁴² Thus they preserved the text of the Law in the exact form in which it was handed down to them by the Soferim, with all of its peculiarities, as well as all the changes and indications made in it by the Soferim. They neither changed the text nor inserted indications of new laws therein. And after the text was for many years in a certain form, that became the fixed and permanent form. In the course of a few decades that permanent form with all its peculiarities came to be considered as sacred, so that no one afterwards dared to

⁴² I must emphasize this point in opposition to Oppenheim who assumes that in the time of persecution they forgot the teachings of the Soferim and for this reason began to teach independent Halakot. The troublesome times might have hindered original activity and the development of the teachings, but could not have prevented the preservation of the older teachings. If they did study at all, they studied what was left to them from the Soferim.

introduce textual changes, as the Soferim of old used to do,⁴³ for the purpose of indicating new laws or new meanings to old laws. Thus we see that after the death of Simon the Just I, the conditions in the community and as a result thereof the activities of the teachers differed greatly from those that were obtained in the times of the Soferim. There prevailed a state of religious anarchy, wherein the practical life of the people was not controlled by the law of the fathers as interpreted by the religious authorities, nor were the activities of the teachers carried on in an official way by an authoritative body. This chaotic state of affairs lasted for a period of about eighty years, until another great change took place which brought the religious anarchy to an end. This happened about the year 190 B.C., when an authoritative Council of priests and laymen was again established. This new Council or Sanhedrin assumed religious authority to teach and interpret the Law and proceeded to regulate the life of the community according to the religion of the fathers.

According to a report in Josephus (*Antiquities*, XII, 3, 8), Antiochus III manifested a very friendly attitude towards the people of Judea after that province had come under his rule. Following his victory over the Egyptian king at the battle of Panea (198 B.C.), he is said to have addressed to his general Ptolemaeus an epistle in favour of the Jews. In this letter, reproduced by Josephus, the following para-

⁴³ We are not considering here the slight changes which according to Geiger (*Urschrift*, pp. 170 f.) were made as late as the time of R. Akiba and according to Pineles (*Darkah shel Torah*, p. 96) even as late as the time of Judah ha-Nasi I. As a whole the text was fixed. Possibly, the Pharisaic teachers, as the party grew in influence and as they became the sole authorities of the religious law, ventured again to make slight changes and to indicate their teachings in the text.

graph occurs (§ 142): 'And let all of that nation live according to the laws of their own country and let the senate (*γερονσία*) and the priests and the scribes of the Temple and the sacred singers be discharged from poll money and the crown tax and other taxes also.' We learn from this that the Jews under Antiochus III were to live according to their own laws, and that there was, besides the priests, another authoritative body, a senate or a Gerousia, of which laymen were also members. Otherwise the mention of the *senate and the priests* separately would have no sense.⁴⁴

It is true that some details in the epistle prove the authorship of Antiochus to be spurious. It was evidently not written by Antiochus. It originated at a much later date and was only incorrectly ascribed to Antiochus by some Hellenistic writer whom Josephus followed (see Büchler, *Die Tobiaden und Oniaden*, pp. 158 seq.). However, if the conditions in the Jewish community under Antiochus III had been known to be very different from those described in this epistle, neither Josephus nor his authority would have accepted the authorship of Antiochus.

⁴⁴ Büchler (*op. cit.*, p. 171) notices this strange feature in the epistle, namely, that the Gerousia is mentioned separately from the priests. He explains it by assuming that the epistle was originally written by a man who lived outside of Palestine and who did not know that in Palestine the senate was composed of priests. While this may explain why the author of the original epistle could have made the mistake, it does not explain how Josephus who was a Palestinian or the Palestinian authority that he followed could have accepted this epistle as genuine. One or the other certainly would have noticed that it did not represent actual conditions. This difficulty is removed by assuming that Josephus knew that at the time of Antiochus the Great the senate in Judea was formed not exclusively of the priests but also of laymen. He, therefore, did not find it strange that the epistle should mention the senate and the priests, i.e. the senate as a body not identical with the priests.

Evidently Josephus on his part had no reason to doubt the genuineness of this epistle, and in his opinion it could well have originated from Antiochus. This can only be explained by assuming that Josephus knew from other sources that, after Judaea had come under Syrian rule, there was a revival of the religious life in the community and a renewal of the official activity of the teachers. From the same source he must have known that the people tried again to live according to their laws and that there was at the head of the community an authoritative body, a Senate or a Gerousia, of which lay teachers also were members. As these events took place under the rule of Antiochus, Josephus linked them in his mind with the political conditions under the same king and believed they were the direct results of Antiochus's friendly attitude towards the Jews. In this supposition Josephus was perhaps right. It is quite probable that the change in the government brought about the change in the internal affairs of the community. As it weakened the influence of the former political leaders, it made it possible for that new organization composed of priests and lay members to assume the leadership of the community. And when Josephus found an epistle, ascribed to Antiochus, which permitted the Jews to live according to their own laws and actually spoke of a senate besides the priests, he could well believe it to have been written by Antiochus.

In a source older than Josephus we indeed find a report of the renewed religious activity by an authoritative assembly composed of priests and lay teachers in the first two decades of the second century B.C. I refer to the 'Fragments of a Zadokite Work', published by Schechter (*Documents of Jewish Sectaries*, vol. I, Cambridge, 1910).

There it is stated (Text A, p. 1) that 390 years after God had delivered them (the Jewish people) into the hands of Nebuchadnezzar, the King of Babylon (about 196 B.C., i.e. 390 years after 586 B.C.), God made to grow a plant (i.e. an assembly) of Priests and Israelites. They (the members of that assembly) meditated over their sin and they knew that they had been guilty [of neglecting the religious laws]. They sought to find the right way [to lead the people back to the Law of God].⁴⁵ Again on page 6 the same fact is stated even more clearly. There it is said that 'God took men of understanding from Aaron (i.e. from among the priests) and from Israel wise teachers (i.e. non-priestly

⁴⁵ The passage in the text A, p. 1, lines 5 ff., reads as follows:—

ובקץ חרון שנים שלש מאות ותשעים לתיתו אותם ביד נבוכדנאצר מלך בבל פקדם ויצמח מישראל ומאהרן שורש מטעת לירוש את ארצו ולדשן בטוב אדמתו ויבינו בעונם וידעו כי אנשים אשמים הם ויהיו כעורים וכימנשים דרך שנים עשרים ויבן אל אל מעשיהם כי בלב שלם דרשוהו ויקם להם מורה דרך להדריכם בדרך לבו (ונומר) 'And at the end of the wrath, three hundred and ninety years after He had delivered them into the hand of Nebuchadnezzar, king of Babylon, He remembered them and made bud from Israel and Aaron a root of a plant to inherit His land and to rejoice in the good of His earth. And they meditated over their sin and they knew that they were guilty men and they were like the blind groping in the way twenty years. And God considered their deeds, for they sought Him with a perfect heart, and He raised for them a teacher of righteousness to make them walk in the way of His heart' (Translation, as given by Schechter). It is evident that the author in describing the origin of the Zadokite sect reviews the conditions that prevailed in Judea prior to the formation of this sect. The period of 'wrath' or, as the parallel passage (p. 5) has it, 'the desolation of the land', is the time of the wars between Syria and Egypt before Antiochus the Great finally acquired Palestine. It was after this period had come to an end, about three hundred and ninety years after God had given the people into the hand of Nebuchadnezzar (about 196 B.C., 390 after 586) that God raised up a plant from *Israel* and *Aaron*. 'Plant' here is a designation for an assembly or Sanhedrin (comp. Genesis r., LIV, 6, ויסע אשל אשל זה סנהדרין, and Hullin 92a, והיא כפורחת, עלתה נצה אלו סנהדרין).

Israelitic teachers) and caused them to come together as an assembly (וַיִּשְׁמְעוּם). They dug the well . . . , that is the Torah'.⁴⁶ This means that the assembled priests and lay teachers together searched the Law of the fathers to find in it a way of prescribing for the religious needs of their time.

The same tradition pertaining to the renewed activity of the teachers and the existence of a Sanhedrin composed of priests and lay teachers in the time of Antiochus, is also found underlying a report in the Mishnah. According to this report, the head of the Sanhedrin at that time was Antigonus of Soko, a lay teacher, and succeeding him were Jose ben Joezer of Zeredah and Jose ben Joḥanan of Jerusalem (Abot I, 3-4). Of the latter two, Jose ben Joezer, a pious priest, is said to have been the president and Jose ben

We learn from this report that in that assembly or the reorganized Sanhedrin, where the nucleus was formed for the two parties, Sadducees and Pharisees, there also arose a third party or sect, composed both of priests and Israelites who differed from the two other groups, the Priest-Sadducees and the Israelite-Pharisees. This third group acknowledged the rights of the lay people to be like the priests, but would otherwise not follow the tendencies of these lay teachers who formed the nucleus of the Pharisaic party. This third group formed a special sect under a teacher of righteousness and emigrated to Damascus.

We further learn from this report that for about twenty years there was harmony between the various elements in this new assembly and that they tried to find a way of arranging the life of the community in accordance with the Law of God, as handed down to them from their fathers.

⁴⁶ The passage on p. 6, line 2-3, reads as follows: ויקח מאהרן נבונים ומישראל חכמים וישמעם. The phrase ומישראל חכמים reminds one of the term חכמי ישראל 'Lay teachers of Israelitic descent', which later on was the designation of the Pharisees, because these lay teachers in the reorganized Sanhedrin formed the nucleus of the Pharisaic party. See my *Sadducees and Pharisees*, in *Studies in Jewish Literature issued in honour of Dr. K. Kohler*, pp. 116 ff. The phrase וישמעם means 'he assembled them', like וישמע שאול את העם, 1 Sam. 15. 4.

Johanan, a lay teacher, the vice-president of the Sanhedrin (*Ḥagigah* II, 2). Of course, these reports in the Mishnah, in the form in which we have them, are of a comparatively late date and cannot be considered as historical.⁴⁷ They form part of that artificial reconstruction of history, undertaken by the later teachers who aimed to establish the fiction of a continuous chain of tradition and the alleged uninterrupted leadership of the Pharisaic teachers through-

⁴⁷ It is very unlikely that Jose b. Joezer was president (*נשיא*) of the Sanhedrin although he belonged to an influential aristocratic family and was a priest (*חסיד שבכהונה*, *Ḥagigah* III, 2). He and his colleague Jose b. Johanan probably were the leaders of that group of pious lay teachers in the Sanhedrin, the *Ḥasidim*, who were the forerunners of the Pharisees. This may be concluded from the report in *1 Macc.* 7. 12-16, where we read as follows: 'Then did assemble unto Alcimus and Bacchides a company of Scribes to require justice. Now the *Asideans* (*Ḥasidim*) were the first among the children of Israel (i. e. non-priests) that sought peace of them.' These *Ḥasidim* who are here identified with the Scribes are also designated as mighty men of Israel (i. e. non-priests), even all such as were voluntarily devoted unto the Law (*ibid.*, 2. 42). We learn from these references that, prior to the Maccabean uprising, there were already scribes who were not priests, that is, lay-teachers of Israelitic descent, who were mighty and influential in the community, otherwise they could not have assumed the authority to go to Alcimus to negotiate for peace. They evidently were of the same group of lay teachers in that reorganized Sanhedrin, who were the forerunners of the Pharisees. They were distinct from the other members of the Sanhedrin in that they were merely concerned with the religious liberty and were therefore willing to recognize Alcimus if they could obtain from him peace and religious freedom. Jose b. Joezer was among this group, and probably was their leader (see above, note 29). In the mind of the later Pharisaic teachers it was this group of the *Ḥasidim* in the Sanhedrin which was looked upon and considered as the Sanhedrin. Its leaders were considered as the real leaders of the whole Sanhedrin. Thus originated the tradition about the *Zugot* as the heads of the Sanhedrin. For later tradition considers only those teachers who were of the Pharisees as legitimate members of the Sanhedrin, and the Sadducees who constituted the majority of the members and were the actual leaders of the Sanhedrin are regarded as intruders and usurpers.

out all the past history. Unhistorical as these reports may be, they certainly contain some kernel of truth. This truth consisted in the fact, known to them, that there was some authoritative assembly composed of priests and lay teachers, of which these men, Antigonos and the two Joses, were prominent members. This historical report, the later teachers elaborated to fit into their scheme. They ignored all the other members, probably even the real leaders of that Sanhedrin, and represented those teachers as the real leaders who were pious followers of the traditional law and who were so to speak the fathers of the Pharisaic party. However, whether Antigonos and Jose were really the heads of the Sanhedrin as tradition represents them, or merely prominent members, or perhaps merely the leaders of the more pious group in that Sanhedrin, the Ḥasidim, this much is sure: there was at that time an assembly or a Sanhedrin, composed of priests and lay teachers with official authority to arrange the religious affairs of the people. The members of this Sanhedrin took up the interrupted activity of the former teachers, the Soferim, and, like them, sought to teach and interpret the Law and to regulate the life of the people in accordance with the laws and traditions of the fathers. But in their attempt to harmonize the laws of the fathers with the life of their own times, they encountered some great difficulties.

It is true, the teachers who were now members of the authoritative council or Sanhedrin, were in the possession of the Book of the Law, in the exact form in which it was transmitted to them by the Soferim. They also knew all the interpretation of the Soferim, as well as all the traditional teachings and additional laws which the latter

connected with or based on the written laws of the Pentateuch. But all the laws contained or indicated in the text of the Book together with all the traditional teachings given by the Soferim in connexion with the Book of the Law were not sufficient to meet the requirements of the new situation. These laws did not provide answers for all the questions that arose, and could not furnish solutions for the new problems in the life of the people. For, all these new problems and questions were the result of new conditions of life now prevailing in Judea, conditions utterly different from those in the times of the Soferim. The problem then became, how to find in the old laws new rules and decisions for the questions and unprecedented cases that now arose.

This difficulty was aggravated by the fact that during the seventy or eighty years of religious anarchy, many new practices had been gradually adopted by the people. In the course of time, these came to be considered as Jewish religious practices, and no distinction was made between them and older religious practices contained in the teachings of the Soferim and based on the traditions of the fathers. Again, the outlook of the people had broadened and their religious concepts had become somewhat modified during those years. Many an old law assumed a new and different meaning or was given a new application, not by the decree of an authoritative body of teachers, but by the general opinion of the people who had outgrown the older conception of that law. Many questions were decided during those years by the people themselves or by such rulers and leaders as they had. Such decisions, though not given by any religious authority and not derived from the written law, became, nevertheless, recognized rules and principles, re-

spected by the people as much as their other laws written or indicated in the Book. It was such new decisions and popular modifications of some laws, as well as the generally observed new customs and practices, that constituted a large part of the traditional laws and practices. These traditional laws naturally had no indication in the written Law and no basis in the teachings of the Soferim, because they developed after the period of the Soferim.

The reorganized Sanhedrin (after 190) had to reckon with these new laws and customs, now considered as *traditional* because observed and practised by the people for a generation or more. They had to recognize them as part of the religious life of the people. But in order to be able to accept and teach them officially as part of the religious Law, the members of the Sanhedrin had to find some authority for these new laws and customs. They had either to find for them some basis in the traditions and teachings of the Soferim, or to find proof for them by some new interpretation of the written Law. This, however, was not an easy task to perform. The present teachers, although members of an official body, like the Soferim of old, could not, like these Soferim, indicate new laws in the text by means of slight changes or additional signs, because the pliability of the text was gone. The text was now in a fixed form which was considered sacred, and no changes could be made in it. The simple methods of interpretation used by the Soferim were also inadequate for the needs of the present teachers. These simple methods could not furnish enough interpretations on which to base the new decisions needed for the times. Throughout the period of the Soferim the development of the interpretations of the Law kept pace with the development of the conditions of

life. But for the teachers of the reorganized Sanhedrin, these simple methods were insufficient because their development had been arrested for about eighty years. We have seen above that the development in the conditions of life after the Soferim, took place without a corresponding development in the teachings and interpretations of the Law. Labouring under such disadvantages the new Sanhedrin found it very difficult to solve the problem of harmonizing the Law of the fathers with the life of the people.

Having no reports concerning that time, we cannot trace the activity of the new Sanhedrin from its beginnings. We know only that it was organized after Judea had come under Syrian rule, that is, after 196 B.C. Some years must have passed before the above-mentioned difficulties were fully realized and plans proposed for their solution. It was probably not until the time of Antiochus Epiphanes that such definite plans were considered.⁴⁸ Different solu-

⁴⁸ From the report in the Zadokite Fragment we learn that for twenty years there was harmony among the various elements of that reorganized Sanhedrin and all sought God with a perfect heart and endeavoured to order their lives in accordance with His Law (see above, note 44). This means that before the year 175 B.C., that is, twenty years after 196 B.C., the date of the organization of that new Sanhedrin, the differences of opinion did not lead to an outspoken opposition between the different groups within that Sanhedrin. It was only after the year 175 B.C., that is, under the reign of Antiochus Epiphanes, that these differences of opinion became so marked as to characterize the different groups in that Sanhedrin as distinct from one another. This is also stated in the *Assumptio Mosis* 6. 2 where we read as follows: 'And when the time of chastisement draws nigh and vengeance arises through the kings who share in their guilt and punish them, they themselves also shall be divided as to the truth.' This refers to the time before the Maccabean revolt, and the king through whom they will be punished can only refer to Antiochus Epiphanes. We are accordingly told that in the time of Antiochus Epiphanes, after the year 175 B.C., there was a division among the Jews themselves in regard to

tions were offered by the various members of the Sanhedrin. This difference of opinion in regard to the solution of this problem caused a breach in that Sanhedrin which ultimately resulted in a division into parties, namely, Pharisees and Sadducees. This breach in the unanimity of opinion was effected during the time of Jose ben Joezer and Jose ben Johanan, the successors of Antigonus, and this is possibly the historic fact upon which is based the tradition that ascribes the origin of the two parties, Pharisees and Sadducees to this particular time.⁴⁹

The priestly group in that assembly, whose exclusive privilege it had formerly been to give instruction in religious matters, and who even now participated prominently in the

the truth, that is, as regards their religious laws. The two groups mentioned there are those who later on formed the two parties, Sadducees and Pharisees. Compare also the Book of Enoch 90. 6, where these two groups, the nucleus of the two parties, are referred to as appearing first at that time. This also agrees with the report in 2 Maccabees, that in the days of Onias III, before Antiochus Epiphanes, the laws were kept very strictly owing to the goodness of Onias (3. 1) who was a zealot for the Law (4. 2).

⁴⁹ The legendary story in Abot d. R. Nathan (version A, ch. V, version B, ch. X, Schechter, p. 26) contains a kernel of truth in that it dates back the origin of the conflict between the two parties to the time of the pupils of Antigonus. All that the story really tells us is that among the disciples or successors of Antigonus there were already great differences of opinion which divided them into two groups. Only one must keep in mind that the first disagreement was not yet a real division. The complete separation of the two groups and their formation into two distinct parties took place later on in the time of John Hyrcanus (see my *Sadducees and Pharisees*, p. 8, note 2). This seems also to be indicated in the story of Abot d. R. Nathan, where the statement הלכו ופירשו להן 'they separated' refers to the pupils of the successors of Antigonus. This would refer to the time of Joshua b. Perahiah, the successor of Jose b. Joezer, who was the pupil of Antigonus. This explanation will answer the objections raised by Halevi (*Doroth Harishonim*, I c, VIII, 169 ff.) against putting the date of the origin of the Sadducean party at the time of the pupils of Antigonus.

administration of the communal and religious affairs,⁵⁰ had a simple solution for the problem in conformity with the maintenance of their authority. In their opinion, the main thing was to observe the laws of the fathers as contained in the Book of the Law, because the people had pledged themselves, by oath, in the time of Ezra, to do so. If changed conditions required additional laws and new regulations, the priests and rulers were competent to decree them according to authority given to them in Deut. 17. 8-13. They maintained that the priestly rulers of former generations had always exercised this authority. For this reason they did not deem it necessary that all the new laws and regulations needed for the changed conditions of life should be found indicated in the Book of the Law or based on the teachings of former generations. Thus the priestly members of that assembly, the future Sadducees, did not feel the need of developing the old laws, or of forcing interpretations into the written Law. They declared the written Law with all the traditional interpretations of the Soferim absolutely binding. However, as rulers of the people, they claimed the right to decide by virtue of their own authority those new questions for which the laws of the fathers did not provide.

This apparently simple solution offered by the priestly group in the Sanhedrin did not find favour with the lay

⁵⁰ Even during the period, when the priests did not carry on any official activity as authoritative teachers, they were still not without influence and authority. Their families still possessed political power, and some of them were influential leaders. In the Temple they had an undisputed authority (see Schürer, *Geschichte*, 114, pp. 279-80). As priests and leaders they had thus become accustomed to exercise authority independently of the Law. Their influence in the last few decades was not due to their being teachers of the Law but to the fact that they formed an influential aristocracy and had control over the Temple and its service.

members of that body. These lay members who had never had a share in ruling the people, now, because of their knowledge of the Law, claimed equal authority with the priests. They refused to recognize the authority of the priests as a class, and, inasmuch as many of the priests had proven unfaithful guardians of the Law, they would not entrust to them the regulation of the religious life of the people. In the opinion of these democratic lay teachers, an opinion also shared by some pious priests, the right to decide religious questions given in Deut. 17. 9 ff. to the priests was not given to them as a family privilege merely because they were priests, but because they were teachers of the Law, and only as long as they were teachers of the Law. The same right was equally granted to the teachers of the Law who were not priests. Both priests and lay teachers had no other authority except that of speaking in the name of the Law. They had merely the right of interpreting the Law and of deciding questions according to their understanding of the Law. They had absolutely no authority to issue new laws or decide religious questions according to principles other than those laid down in the Law, for the Law alone was to be the authority of the Jewish people. The entire life of the people in all its possible situations should be guided and controlled by no other authority than the Law as interpreted by the teachers, whether priest or layman.⁵¹

Acknowledging the Law of the fathers to be the sole authority, these lay teachers now had to find all the decisions and rules necessary for the practical life of their time contained or implied in the Law. They also had to

⁵¹ For further details about the attitude of each group towards the Law see my *Sadducees and Pharisees*.

devise methods for connecting with the Law all those new decisions and customs which were now universally observed by the people, thus making them appear as part of the laws of the fathers.

There were two methods by which they could accomplish this result. The one was to expand the *Midrash* of the Soferim, that is to develop the method of interpretation used by the Soferim and to invent new exegetical rules, by means of which they could derive new decisions from the written Law, and find sanction therein for various accepted practices. The other method was to enlarge the definition of the term 'Law of the Fathers', so as to mean more than merely the written Book of the Law with all its possible interpretations. In other words, it meant a declaration of the belief that not all the laws of the fathers were handed down in the written words of the Book, but that some religious laws of the fathers were transmitted orally, independently of any connexion with the Book. Either method, to an extent, meant a departure from the old, traditional point of view, a course which the teachers naturally hesitated to take. In spite of considerable reluctance, the teachers gradually were led to make use of both of these methods. At first they attempted to expand the *Midrash*, the form which they were accustomed to use. They developed new methods of interpretation by which they could derive from the Law new decisions for current cases and even justify some of the existing practices and find scriptural support for some decisions which had originally been given without reference to the written Law. However, the enlarged use of new and more developed *Midrash* methods was not sufficient to secure proofs for all necessary decisions and find scriptural authority for all existing laws and accepted practices.

There were many practices, generally accepted by the people as part of their religious life, for which even the developed Midrash with its new rules could find no support or proof in the written Law. This was especially the case with such decisions and practices as originated in the time after the Soferim. In the opinion of the teachers, the origin of these laws and customs was Jewish. They reasoned thus: It is hardly possible that foreign customs and non-Jewish laws should have met with such universal acceptance. The total absence of objection on the part of the people to such customs vouched for their Jewish origin, in the opinion of the teachers. Accordingly, the teachers themselves came to believe that such generally recognized laws and practices must have been old traditional laws and practices accepted by the fathers and transmitted to following generations in addition to the written Law. Such a belief would naturally free the teachers from the necessity of finding scriptural proof for all the new practices. They could teach them as traditional Halakot not dependent upon the written Law, that is to say—in the Mishnah-form.

However, the theory of an authoritative traditional law (which might be taught independently of the Scriptures) was altogether too new to be unhesitatingly accepted. Although it may be safely assumed that the fathers of the Pharisaic party did not originally formulate the theory of an oral law in the same terms and with the same boldness with which it was proclaimed by the later Pharisaic teachers, still even in its original form the theory was too startling and novel to be unconditionally accepted. Even those teachers who later became the advocates of the so-called oral law could not at first become easily reconciled to the idea that some laws had been handed down by tradition,

side by side with the written law and equal in authority to the latter. Accordingly, these teachers applied the term 'Traditional Law' only to such practices and rules, whose religious authority was unquestioned and whose universal acceptance went back to the time before the memory of living men.⁵² The absence of objection to any such law or custom pointed in itself to an old Jewish tradition as its source, so that the teachers were justified in believing it to be a genuinely traditional law. But even in the case of such generally accepted rules and practices, it was only as a last resort that the teachers would present them independently as traditional laws. They preferred to resort to the developed methods of interpretation, which, although also new and also a departure from the older Midrash, were yet not so startling as the idea of declaring a new source of authority for religious laws in addition to the written Torah. Wherever there was the remotest possibility of doing so, they would seek by means of new hermeneutical rules to find in the words of the Torah support for these traditional laws. They could thus continue to teach them in connexion with the written Law, that is in the Midrash-form, as of old. Only in a very few cases, when it was absolutely impossible to establish by means of the Midrash any connexion between the traditional practice and the written Law, would they teach the same as independent traditional Halakah, that is to say, in

⁵² It might perhaps be said that the theory grew and forced itself upon the teachers without any intention on their part to formulate it. They could not ignore certain practices, considered by the people to be religious. They had to teach them. Since they could not trace their origin, they assumed that they were traditions of the fathers. It was but one step, almost an unconscious one, from this to the declaration, that the fathers received their traditional laws together with the written Law.

the Mishnah-form.⁵³ This, no doubt, was the very first use made of the Mishnah-form.

However, in this first introduction of the new form with its very limited use lay the possibility of a much wider and more general application. Once it was conceded that, when absolutely necessary, a form of teaching other than the Midrash could be used, it became merely a question of what to consider a case of necessity. This varied with the individual teacher. To some teachers, the Mishnah-form appealed even where the Midrash-form was possible, but not acceptable, as, for instance, when the interpretation of Scriptures offered in support of the decision was not approved. For even the developed Midrash methods and the new rules of interpretation were not all of them accepted by all the teachers. Some teachers would go further than the others. It often happened that rules and interpretations offered by one teacher would be rejected by another. We may presume that it often happened that one teacher would try by means of a new interpretation to support a decision from Scripture, while other teachers, although rejecting that particular interpretation, would accept the decision, either because of the authority of that teacher or because it was accepted by the majority. These other teachers of course could not teach such a decision in the Midrash-form, because they rejected the particular Midrash furnished for the decision. They were compelled to teach such a decision as an abstract Halakah, that is, in the Mishnah-form. Fortunately, we have positive proof that such instances did occur. This actually happened in the

⁵³ Accordingly the Midrash always remained the main form of teaching and the Mishnah only gradually came to be used alongside of it (see above, notes 8 and 22).

case of the oldest Halakot preserved to us in the Mishnah-form, namely, the Halakot of Jose ben Joezer. As will presently be shown, these decisions were taught by the teachers as independent Halakot in the name of Jose, because the interpretations given by Jose in their support were not approved by the other teachers. To prove that this was the case, we have to examine these Halakot in order to ascertain their exact meaning, also Jose's share in them, and the attitude of the other teachers towards them.

These Halakot are found in the Mishnah, Eduyot VIII, 4, and they read as follows :

העיר יוסי בן יועזר איש צרידה על איל קמצא שהוא דבן ועל משקה
 בי מטבחיא (דאינון) דכין ודירקב במיתא מסתאב. וקרו ליה יוסי שריא.

Jose ben Joezer of Zeredah stated regarding the Ayyal Kāmṣa [a certain species of locust] that it is to be considered as clean (i.e. permitted to be eaten), and regarding the liquids of the slaughtering place, that they are to be considered as clean, and that [only] that which has come into direct contact with a dead body becomes unclean. And they [the other teachers] called him 'Jose the Permitter'. There are a few difficulties in these Halakot which we must point out before we can get at their full meaning and demonstrate their bearing upon our theory.

The first strange feature in these Halakot is their language. They are given in Aramaic and not in Hebrew, in which all other Halakot of the Mishnah are given.⁵⁴

⁵⁴ There is no other halakic decision in the Mishnah expressed in the Aramaic language. The Aramaic saying of Hillel (Abot I, 13) was either uttered by Hillel while he was still in Babylon, or because it was addressed to the people as a popular saying it was given in Aramaic which was then already the language of the people. The latter reason would also account for the other two sayings in Abot V, 22-3 given in the Aramaic language.

Weiss tries to account for the Aramaic language of these Halakot by assuming that they were remnants of the teachings and decisions of the Soferim (*Dor*, I, p. 66), who according to his assumption delivered all their teachings in the Aramaic language⁵⁵ (Introduction to Mekilta, p. iv). Jose, according to Weiss, merely attested to these decisions, but did not originate them. This explanation, however, rests upon false premises. In the first place, if the Aramaic of these Halakot was due to their being decisions of the Soferim, we ought to find many more Halakot in the Mishnah in the Aramaic language. For there are certainly more teachings of the Soferim preserved in our Mishnah. Weiss himself points out (*Dor*, I, p. 65) many Mishnahs which, in his opinion, are very old and originated in the

⁵⁵ It is surprising to find that Weiss not only contradicts himself, but also reasons in a circle. He himself mentions many proofs for assuming that Hebrew was used by the majority of the people and by the Soferim. He has absolutely no reason for assuming that the Soferim taught in Aramaic. However, just because these three decisions of Jose are expressed in Aramaic, and because in his opinion Jose received these decisions in their form and in their language from the Soferim, he concludes that the Soferim must have taught in Aramaic. And as a proof for his opinion that these decisions are from the Soferim he can only cite the fact that they are expressed in Aramaic, which, in his opinion, was the language of the Soferim. Weiss here follows Krochmal who assumes (in *More Nebuke Hazeman*, X, pp. 52-3) that the language of the people in the time of Ezra was Aramaic. Both Krochmal and Weiss seem to have been misled by the haggadic interpretation of the passage in Neh. 8. 8, given in b. Nedarim 37b, מפורש זה תרגום, which they understood to refer to an Aramaic translation. Following this Haggadah, they assume that as early as the time of Ezra the Torah had been translated into the Aramaic (see Krochmal, *l. c.*, and Weiss, *Dor*, I, p. 54; compare also Friedmann, *Onkelos and Akylas*, Wien, 1896, p. 58). Hence they argue, if an Aramaic translation was necessary, then the language of the people must have been Aramaic. But this is a mistake. There was no translation of the Torah in the time of Ezra, as the people spoke Hebrew, the language in which the Torah was written.

time of the Soferim. Why is it then that this one Soferic saying transmitted by Jose has been retained in the original language, the Aramaic, while all the other teachings of the Soferim, which no doubt are preserved in our Mishnah, have been translated into the later Hebrew? ⁵⁶ Furthermore, the whole premise that the Soferim gave their teachings in Aramaic, declared by Weiss (Introduction to the Mekilta, *ibid.*) to be beyond doubt, is absolutely false. All indications point to the fact that the Soferim gave their teachings in Hebrew, the language which the people spoke. The exiles who returned from Babylon did not bring with them the Aramaic language. They spoke Hebrew, as is evident from Neh. 13. 24, where Nehemiah complains that some of the children were unable to speak the Jewish language, that is Hebrew. It certainly cannot be assumed that the Soferim, as teachers of the people, would set the bad example of using any language other than their own.⁵⁷ The Aramaic language came into use among the people in Palestine at a much later date ⁵⁸ (see Schürer, *Geschichte*,

⁵⁶ According to Weiss, then, we would have to account for another radical change in the method of teaching, namely, the change in the language, the medium of instruction, from the Aramaic to the later Hebrew, and one would have to fix the time and find the reason for the change.

⁵⁷ Weiss himself says (*Dor*, I, p. 54) that Nehemiah and the earlier Soferim endeavoured to keep up the Hebrew, and only some of the people did not understand Hebrew perfectly. But if so, why did the Soferim give all their teachings in Aramaic?

⁵⁸ Schürer points out that the Aramaic of Palestine could not have been brought along by the returning exiles, as the Aramaic spoken in Palestine was the Western Aramaic and not the Eastern Aramaic spoken in Babylon. Friedmann (*op. cit.*, p. 57) assumes that the language of the returning exiles was the Babylonian Aramaic, but that in the course of time this language was changed and influenced by the Aramaic of Palestine. This assumption is without proof. The proofs cited by Friedmann for the use of the Aramaic language do not prove anything with regard to the time of the Soferim.

II⁴, pp. 23–6. Even after the Aramaic language had become the language of the people, Hebrew remained the language of the school and the teachers, the לשון חכמים. For this reason we have all the Halakot in the tannaitic literature, such as Mishnah and halakic Midrashim, given in Hebrew.

Aside from all these considerations as to the language of the Soferim, it is altogether wrong to connect these three Halakot with the Soferim. They are not Halakot of the Soferim, which Jose merely transmitted and attested to, they are decisions which originated with Jose himself and for which he offered reasons and scriptural proofs. And this brings us to the discussion of the second difficulty in our Mishnah, namely, the introductory term העיר. This term העיר means literally to testify, to state as a witness what one knows or has seen or heard. Some scholars have understood the term העיר in this Mishnah in this very sense, and have declared it to mean that Jose merely testified that these decisions were older traditional laws and practices. As we have seen above, Weiss assumed that they were decisions of the Soferim for the genuineness of which Jose vouched. But it is absolutely incorrect to take the term העיר here in the sense that Jose merely 'testified' to older traditional laws and decisions. As far

The Aramaic became the language of the Jews in Palestine in the first half of the second century B. C. The proofs adduced by Friedmann (*l. c.*, p. 58) refer to a much later date than the second century B. C. Saadya Gaon, in the preface to his *Sefer Ha-Iggaron* (Harkavy, *Zikron la-Rishonim*, V, p. 54), states that about three years before the rule of Alexander in Palestine the Jews began to neglect Hebrew and adapted the language of the other nations in the land (i. e. Aramaic). While his date is based upon a wrong chronology (see IV), he certainly is correct in his statement as to the fact that the returning exiles spoke Hebrew and that it was only after many years that they began to speak Aramaic.

as we know, the method of procedure followed by the teachers of the Halakah in receiving a teacher's testimony in regard to some rule or practice was to consider the testimony alone. They either decided according to it, or if for some reason they would not do so, they stated that reason. Without reflecting upon the testifying teacher, they would seek to invalidate the testimony or to deny its bearing upon the case under discussion (compare *Eduyot* II, 2; VIII, 3; *Sanhedrin* VII, 2; and *Tosefta Sanhedrin* IX, 11). Nowhere do we find that they hold the testifying teacher responsible for the decision which he reports.⁵⁹

⁵⁹ The case of Akabiah b. Mahalalel (*M. Eduyot* V, 6) whom the other teachers held responsible for the decisions which he stated before them, cannot be cited as an instance against this statement. It is doubtful, to say the least, whether the four decisions of Akabiah, although likewise introduced with the term העיר, were old traditional Halakot to which he merely testified.

The controversy between Akabiah and the other teachers is shrouded in mystery. The later teachers, for reasons best known to themselves, did not care to report about it in detail. They acknowledged only with reluctance that there were disputes among the older teachers about the traditional laws, that such an eminent teacher as Akabiah protested against what was accepted by others as traditional laws, and that harsh means were used to silence such protests. The knowledge of these facts would reflect unfavourably upon the validity of the traditional law. For this reason one of the later teachers also denied the fact that Akabiah was put under ban (*ibid.*). From the meagre reports preserved in our sources it is difficult to obtain a clear account of the nature of the dispute and of what actually took place between Akabiah and the other teachers. It is, however, very probable that Akabiah was the author of these four decisions, and that the term העיר in this case is likewise to be taken in the sense of 'stated', 'declared', and not 'testified'. This is apparent from the very demand to retract which the other teachers made. They could not have asked him to take back his testimony, but they could ask him to change his opinion. From the expression used in this demand to retract, חזור בך מארבעה דברים, שהיית אומר, it is also evident that Akabiah was his own authority in these four decisions, that he was the one who said these things, and not that he merely testified that others said them. Again, in his advice to his son to

Here, in the case of Jose, however, we see that they called Jose שריא 'the Permitter', thus making Jose responsible for the decisions. If Jose had been merely testifying to the decisions of former teachers, then those former teachers, the Soferim or whoever they may have been, were the ones who 'permitted', and not Jose. Why, then, call Jose שריא 'the Permitter'?

This is even more strange since we do not hear that the other teachers gave any argument against his decisions and, as we shall see, they even accepted them להלכה 'as a norm of practice'.⁶⁰ It is therefore evident that these Halakot, though introduced with the phrase העיר יום, were

follow the majority, Akabiah uses the words להניח דברי היתיר מוטב ולאחוז בדברי המרובים 'It is better to abandon the opinion of an individual and to hold to the opinion of the many' (*ibid.*, 7). From these words it is also evident that the decisions of Akabiah were the opinion of an individual teacher (i. e. himself), and not the opinion of the majority of the teachers from whom Akabiah received them. We must therefore assume that the words אני שמעתי מפי המרובים . . . אני עמדתי בשמועתי (*ibid.* 7), which are put into Akabiah's mouth, are a later addition. They form an attempt on the part of a later teacher to minimize the sharpness of the conflict between Akabiah and his contemporaries. Its purpose was to make it appear as if there had always been perfect harmony among the teachers, and that only in this case each had a different tradition which he had to follow. This, however, is a very poor attempt, for it does not explain how there could have been different traditions. It only shifts the date of the conflict of opinions from the time of Akabiah and his colleagues to the time of their teachers and predecessors.

It is also possible that the same later author who thus attempted to exonerate Akabiah added the word העיר, to introduce Akabiah's decision, thus representing them as being based upon an older tradition which Akabiah had.

⁶⁰ Levy erroneously states (*Ozar Nehmad*, III, pp. 29-30) that Jose's decisions were ignored by the other teachers. From the talmudic discussion Pesahim 16a (comp. also Maimonides, Yad. Tum'at Oklin, X, 16) and Abodah zarah 37a b it is evident that the decisions of Jose were accepted by the other teachers and made the norm for practice, להלכה.

not older traditional laws transmitted by Jose as a mere witness, but Jose's own teachings. He was the one who 'permitted', and he deserved the name שריא. This is further confirmed by the discussions of the Amoraim in the Talmud who try to explain these decisions. Rab and Samuel in attempting to give a reason for one decision of Jose's, use the word קסבר 'he (Jose) held', or 'was of the opinion'. And when the reason for another decision is asked, the phrase במאי קמיפלגי 'in what do they (Jose and his opponent or opponents) differ' is used (Abodah zarah 37 a, b). Again, when R. Papa ventured to say in regard to one of the decisions that it was an old traditional law, הילכתא נמירי לה, he was promptly refuted (Pesahim 17 b). Thus we see that in the talmudic discussions about these decisions they are taken as Jose's own teachings and not as older traditional laws.

This correct interpretation removes all the difficulties from our Mishnah. The term העיר is to be taken here in the sense of 'declared', or 'stated'. The Aramaic in which these decisions are expressed is to be accounted for, not by their alleged origin in the early days of the Soferim, but rather by the comparatively late date at which they originated. It is probably also due to the peculiar circumstances which gave them their present form. These decisions, as we have them, are not preserved to us in Jose's own words, nor in the form in which he gave them. Jose gave these decisions in Hebrew and in Midrash-form. He taught them in connexion with the several Scriptural passages on which he based the decisions. The teachers, however, who transmitted these decisions, for reasons of their own (to be stated below), detached these decisions from their scriptural bases and expressed them in the Aramaic language. That Jose

had scriptural proofs for his decisions, is evidenced by the fact that the Amoraim in the Talmud endeavour to find these proofs or reasons. Evidently the Amoraim were convinced that some scriptural proofs did underlie these decisions, although not mentioned by the teachers who transmitted them. By following the Amoraim, whose analysis of these Halakot probably echoes older tradition, we will be able to find the midrashic proofs given by Jose in support of his decisions.

In the case of one decision the midrashic arguments of Jose and his opponents have fortunately been preserved, namely, in the case of the third decision which is ודיקרב במיתא מסתאב 'one who touches a corpse becomes unclean'. We must first arrive at the correct meaning of the decision. This decision does not mean simply that one who touches a corpse becomes unclean, for this is expressly stated in the Bible in regard to a human corpse (Num. 19. 11) as well as in regard to the carcase of an animal (Lev. 11. 27 and 29) or a reptile (*ibid.*, 31). Furthermore, Jose is called 'the Permitter', evidently because in all three decisions he permits things that were formerly considered forbidden. He, therefore, could not mean to teach us, in this last decision, concerning what becomes unclean and therefore forbidden. We arrive at the correct meaning of this decision by emphasizing the word במיתא⁶¹ and interpreting

⁶¹ Frankel (*Hodegetica*, p. 32) explains the decision of Jose to mean that Jose decided that one who has come into direct contact with a corpse becomes unclean but one degree less than the corpse itself, i. e. he becomes אב הטומאה and not אבי אבות הטומאה. Frankel bases his explanation on the expression מסתאב 'becomes unclean', since it is not said מסיאב, which could mean also 'he makes unclean'. But this explanation is wrong. In the first place, if the נוגע במת becomes only אב הטומאה he could still make others unclean, and thus be a מסיאב and not merely a

it to mean '[only] he who *touches* a dead body' (of a human being or an animal or a reptile) becomes unclean', but one who touches a thing or person that has itself become unclean by contact with a corpse (i.e. **דיקרב בדיקרב**)⁶² does not become unclean. This interpretation of Jose's third decision is given in the Talmud (Abodah zarah 37 b) and is correct despite the objections raised by Raba. As stated correctly in the Talmud (*ibid.*), the other teachers before and during the time of Jose were of the opinion that **מסתאב**. Secondly, as Weiss (*Dor*, I, p. 100, note) pointed out, the reading **מסתאב** is not genuine, some editions having indeed **מסתאב**. Moreover, **מסתאב** does not mean 'makes unclean', but simply 'is unclean'. Jose's decision probably was that one can become unclean only by direct contact with a corpse, the emphasis being on **במיתה**. If, however, one touches a thing or another person that had become unclean by contact with a corpse, he does not become unclean, because he did not come in direct contact with the corpse.

⁶² The later talmudic teachers seek to harmonize Jose's decision with the later teachings of the Halakah. They therefore modify the meaning of the term **דיקרב בדיקרב**, and explain it so as to agree with the later teachings of the accepted Halakah. But the original meaning of the term **דיקרב בדיקרב**, which is apparently identical with the phrase **ננע אדם** **במנע טמאות** in Sifra, was altogether different from the meaning given to it in the talmudic discussion. To harmonize Jose's decision with the later teachings of the Halakah, one could interpret it to mean that only certain kinds of **דיקרב בדיקרב** are clean. That is to say, Jose declared that not everything that has been in contact with a corpse can make a person that touches it unclean. Jose, then, meant to exclude earth, stone, and wood. His decision accordingly was directed against an older Halakah which declared that one who touches wood, stone, or earth that has become defiled by contact with a corpse, becomes unclean. Such an old Halakah seems to be expressed in the 'Fragments of a Zadokite Work' (Schechter, *Documents of Jewish Sectaries*, vol. I, p. 12, lines 15-17). Compare, however, Ginzberg's ingenious explanation of this passage in the *Monatschrift*, 1912, pp. 560-61). It seems, however, more probable that Jose declared every kind of **דיקרב בדיקרב** clean, even a person who touches another person who had become defiled by contact with a corpse. Jose, then, is against the later teachings of the Halakah that a **טמא מת** becomes a **טומאה** and can make others unclean. See below, note 64.

דיקרב בדיקרב, one who touches a person who has become unclean by contact with a corpse, also becomes unclean, מדאורייתא, according to the Law. They must have derived their opinion either from a literal interpretation of the passage in Num. 19. 22, כל אשר יגע בו הטמא יטמא, as stated in the Talmud (*ibid.*) or, what is more likely, from the passage in Lev. 5. 2, או נפש אשר תגע בכל דבר טמא, which literally means one who touches any object that is unclean. This apparently includes one who touches an object which has become unclean through contact with a corpse. This seems to me to have been the scriptural basis for their theory. But Jose interpreted this scriptural passage differently, so that he could give his decision, permitting a דיקרב בדיקרב, and declaring such a one as clean.

Indeed, we find these two opposing views preserved in Sifra, *Hobah*, XII, ed. Weiss 22 d. There we read as follows: או נפש אשר תגע בכל דבר טמא, הוקנים הראשונים היו אומרים יכול אפילו אם נגע אדם במגע טמאות יהא חייב ת"ל בנבלת חיה בנבלת בהמה מה אלו מיוחדין שהם אבות הטומאה יצא דבר שאין אב הטומאה 'Or if a person touches any unclean thing' (Lev. 5. 2). The former teachers said: 'One might argue [from the expression "any unclean thing"] that even if a person has touched anything that had come into contact with unclean things, he should also be [considered unclean and consequently] subject to the law mentioned in this passage. The scriptural text teaches us, therefore, [by specifically mentioning] "whether it be a carcass of an unclean beast, or a carcass of unclean cattle, or the carcass of unclean creeping things" that only these specific objects which are original causes of uncleanness [can by their contact make a man unclean], but it excludes anything else which is not an original cause of uncleanness.' The term יכול 'one might

argue', points to an actual opinion held by some people, which the Midrash seeks to refute. As the view of the *זקנים הראשונים* here expressed is identical with the view of Jose,⁶³ viz.: that only *דיקרב במיתה* becomes unclean, the possible opinion introduced by *יכול* refers to the view actually held by the teachers before Jose, or by those who disputed with him. We can, therefore, ascertain the new method used by Jose from the interpretation given in Sifra in the name of the *זקנים הראשונים*. This interpretation says that the meaning of the general term *בכל דבר טמא* is defined and limited by the following special terms *בנבלת בהמה חיה* and *או שרץ*, so as to include only the latter or such as are exactly like them. Accordingly we have in this instance for the first time the application of the rule of *כלל ופרט אין בכלל אלא* מה שצפוי. And if we include the passage *מה אלו מיוחדין שהן אבות הטומאה* in the original Midrash, which however is doubtful,⁶⁴ Jose or

⁶³ The identity of Jose's decision with the one quoted in Sifra in the name of the *זקנים הראשונים* is also assumed by Professor I. Levy as quoted by S. Horowitz in *Sifre Zutta*, Breslau, 1910, p. 7, note 5.

⁶⁴ It seems to me that the passage *מה אלו מיוחדין שהן אבות הטומאה* is not of the original Midrash of the *זקנים הראשונים*, but a later addition. For, if it had been a part of the Midrash of the older teachers, then R. Akiba's Midrash which follows it would not have added anything and would have been entirely superfluous. The original Midrash of the older teachers closed with the words *חל... בנבלת שרץ*. The older teachers interpreted this scriptural passage as a *כלל ופרט*, to mean only what is expressly mentioned in the special term *מה שצפוי*. They excluded even *אבות הטומאה*. To this R. Akiba added another Midrash according to which only what is not an *אב הטומאה* is excluded. If, however, we include the passage *מה אלו מיוחדין שהן אבות הטומאה* in the original Midrash of the older teachers, we must assume that the term *אבות הטומאה* is used by them in a narrow sense to designate 'the original sources of uncleanness', and not in the technical sense in which it is used usually to designate a certain degree of uncleanness (see Horowitz, *op. cit.*, p. 8).

That the *אבות הטומאה* excluded even so-called *זקנים הראשונים* is

the זקנים הראשונים must have considered the following passage *או אשר יגע בכל טומאת אדם* as another כלל and formulated the rule *כלל ופרט וכלל אי אחת דן אלא כעין הפרט*, and accordingly included other *טומאות* which are like *מיחא*.

From a comparison of the explanation given to Jose's first decision in *Abodah zarah* 37 a with *Hullin* 66 a we learn that the decision declaring *איל קמנא* as clean was reached by Jose also by means of applying the rule כלל ופרט וכלל to include *הפרט כעין הפרט* (see Rashi *Ab. zarah*, *ad loc.*, and *Tosfot Yomtov* to *Eduyot* VII, 8). In regard to the decision about the *בי מטבחיא*, it is hard to find out by what means Jose derived this from the Scriptures, as we are not quite sure as to the exact meaning of this decision. Even the later Talmudic teachers held different opinions regarding its meaning. According to Rab, Jose's decision declared these liquids altogether clean and not subject to defilement, *דכן ממש*, while according to Samuel the decision was merely that these liquids cannot communicate to others their defilement, but in themselves may become defiled, *דכן מלטמא טומאת אחרים* (see *Pesahim* 17 a). Rab's explanation seems, however, to be more plausible and warranted by the plain sense of the word *דכן* which means, simply, *דכן ממש*. In this case we may safely assume that Jose arrived at this decision also by means of the

conceded even by Rabad in his commentary on *Sifra*, *ad loc.* (This shows that he felt the difficulty of finding a difference between their Midrash and the Midrash of R. Akiba.) Rabad, however, assumes that the older teachers decided this only with regard to punishment for entering the sanctuary in such a state of uncleanness, *ואין חייבין עליהם על ביאת מקדש*. Levy, as quoted by Horowitz, follows Rabad herein. But it is very unlikely that the older teachers made such a distinction. If a person was considered unclean he would have been punished for entering the sanctuary in his state of uncleanness. If he was not to be punished for entering the sanctuary, that meant he was not at all unclean.

method of using the כלל ופרט rule. For in Lev. 11. 24, where the defilement of liquids is spoken of, it is said: אשר ישתה אשר וכל משקה בכלי יטמא 'which is drinkable' or 'which is drunk out of a vessel', a limiting special term, פרט, which qualifies and limits the general term, וכל משקה, and excludes from the latter the משקה בי מטבחיא which 'is not drinkable' or 'is not drunk out of a vessel'. In the same way Eliezer (in *Sifra*, *Shemini*, IX, Weiss 55 a) applies this principle to exclude משקה סרוח.⁶⁵

Thus we find that Jose derived all his decisions from the Scripture by means of interpretations, and that these interpretations were according to new methods. These new methods, however, were rejected by his contemporaries, because they were novel. The teachers of the next generation and possibly even some of his colleagues, respecting the authority of Jose, accepted his decisions but hesitated to recognize the validity of the new rule of כלל ופרט which Jose used. Since they did not accept this method they could not teach these decisions together with the scriptural

⁶⁵ It is possible that in the saying of R. Eliezer, the representative of the older Halakah, we have the same decision which was given by Jose. Jose, however, directed his decision to a certain kind of undrinkable liquid, the משקה בי מטבחיא, while the older Halakah as represented by R. Eliezer formulated the same decision in a general way, so as to apply it to all undrinkable liquids, משקה סרוח. Accordingly, the statement of Rab (Pesahim 17 a) that Jose held that there was no biblical law which would subject liquids to uncleanness, קסבר אין טומאה למשקין מן התורה, is not correct. Jose excluded only undrinkable liquids from these laws. It is very unlikely that as early as the time of Jose there was a rabbinical law declaring liquids subject to uncleanness, גזירה למשקין מדרבנן. It should be noticed that there is much confusion about the laws of טומאת משקין, which made it difficult to ascertain the real meaning of Jose's decision, the more so as the later teachers sought to harmonize it with the later halakic rulings about liquids.

proofs given to them by Jose. They therefore merely mentioned them as decisions given by Jose. They would not even teach them in Hebrew, the language in which they taught all their Halakot connected with the Scripture in Midrash-form. They formulated them in the Aramaic language, then already popular, just as they would mention decisions given by secular authorities, or just as they would refer to popular customs in the language of the people, rather than in the language of the school.⁶⁶ For this reason they introduced these Halakot with the formula **העיר יוסי**,⁶⁷ Jose 'declared', or 'stated', i. e. Jose is the authority for these decisions; and they properly called him **יוסי שריא**, 'Jose the Permitter'.

On the same principle and in the same manner, the teachers dealt with another decision given by Jose ben Joezer and his colleague Jose ben Johanan of Jerusalem, viz. that glassware is subject to the laws of Levitical uncleanness. An old tradition reports that the two Joses decreed that the laws of uncleanness apply to glassware, **גזרו טומאה על כלי זכוכית** (Shabbat 15 a). There is no reason

⁶⁶ In the Midrash form, when the Halakah forms a sort of a commentary on the Hebrew text, the use of the Hebrew language especially recommended itself. In many cases the comment consisted merely in emphasizing the important words in the text, or in calling attention to a peculiar construction or to a special form. All these peculiarities of the Midrash would have made it very difficult to use another language than Hebrew. In this manner Hebrew remained the **לשון חכמים**, the language of the school. It continued to be used for teaching Halakah even when the latter was separated from the Hebrew text of the Scriptures and taught independently in Mishnah-form.

⁶⁷ See above, note 30. There is no doubt that the introductory formula **העיר** was added by a later teacher. It may be that in the case of Jose, as in the case of Akabiah (see above, note 58) the later teacher who added this formula meant to suggest by it that Jose had a tradition on which he based his decisions, so that he was not the author or innovator of the same.

to doubt the genuineness of this report in the Babylonian Talmud, nor are there any reasons for ascribing this decree to other authors as Graetz has done.⁶⁸ The reason for this

⁶⁸ Graetz, *Geschichte*, III⁴, p. 707, is inclined to ascribe this decree about glassware to Simon b. Shetaḥ and not to Jose b. Joezer. He bases his theory solely on the passage in p. Ketubbot, VIII, 11, 32 c, where it is said of Simon b. Shetaḥ, והוא התקין טומאה לכלי זכוכית. The correctness of this statement is questioned by the Talmud on the ground that it conflicts with another reliable report, which ascribes this decree to the two Joses. The explanation is then offered that both reports are correct. The decree was first issued by the two Joses, but was subsequently forgotten or neglected, and then revived and reintroduced by Simon b. Shetaḥ. This talmudic explanation may be correct. The hesitancy on the part of the other teachers, Jose's colleagues, to accept the interpretation on which he based his decree may have necessitated another formal decree or a confirmatory act in the days of Simon b. Shetaḥ. Graetz, however, evidently does not think so. He discards this explanation of the Talmud as a poor attempt to harmonize these two conflicting reports. However, granted that this explanation is merely a harmonization, we can reject the explanation but not the objection raised by the Talmud. There is no reason whatever for ignoring all the other reports which ascribe the decree to the two Joses and accepting this one which ascribes it to Simon b. Shetaḥ. This is all the more incorrect as it is apparent that this one report is based on a mistake. Simon b. Shetaḥ decreed against metal-ware, כלי מתכות (Shabbat 14 b, comp. Graetz, *l. c.*, pp. 706, 708). In a report about this decree of Simon some one probably made the mistake of substituting כלי זכוכית for כלי מתכות. R. Jonah's saying cited there in the Talmud (p. Ketubbot, *l. c.*) is accordingly another answer to the question raised there about the two conflicting reports. It is introduced for the purpose of correcting the mistake in the one report, and telling us that Simon decreed only against metal-ware כלי מתכות and not against כלי זכוכית. The decree against the latter, then, really came from the two Joses as reported repeatedly in p. Shabbat I, 3 d, p. Pesahim 27 d, and b. Shabbat 15 a.

Graetz is wrong in assuming that the Babylonian Talmud does not contain correct information about this subject, and that the utterance of an Amora Zeera is mistaken in the Babylonian Talmud for a Baraita. The contrary is true. This report is an older Baraita. In the Palestinian Talmud, however, this Baraita is mentioned by the Amora Zeera, as there are many such instances of Baraitot being quoted by Amoraim and appearing as if they were the sayings of the Amoraim (see Frankel, *Mebo ha-Jerushalmi*, pp. 26-7).

decision was (as is correctly given by Johanan, in the name of Simon ben Lakish) that glass is made of sand and is therefore the same as any other earthen vessel, כלי חרס (*ibid.*, 15 b). The Talmud, discussing this explanation of Simon ben Lakish, raises the following question: 'If glassware has been declared like כלי חרס because being made of sand it belongs to the class of earthen vessels, why then is it not considered by the Halakah as כלי חרס in all respects?

In the discussion that follows, the Talmud (*ibid.*) finds difficulties in answering this question. We are not concerned with the answer given in the Talmud, because it is merely an unsuccessful attempt to harmonize the decision of Jose with later practice. The significant thing for us is that this question was raised. It indicates that the Amoraim experienced difficulty in understanding the decision, although

From the discussion in the Babylonian Talmud about this report it is evident that they were well informed about this case. Objections are raised against part of this tradition, viz. the report about the decree of טומאה על ארץ העמים. They show that there is another report which ascribes it to רבנן דשמונים שנה. The two reports are, however, harmonized. But they could not find any contradictory report about the decree against כלי זכוכית.

The reading ועל כלי זכוכית in the report of the activity of the רבנן דשמונים שנה is missing in the older codices. See Zerahiah Halevi in Hamaor to Shabbat, *ad loc.* From the fact that no answer or solution is given in regard to כלי זכוכית it is also evident that the report about the act of the רבנן דשמונים שנה only mentioned the decree of טומאה על ארץ העמים.

Graetz's argument, that this institution presupposes the common use of glassware among the people, a practice which could not have been the case in the time of the two Joses, is rather weak. Although the great majority of the people may not have lived in luxury in the time of the two Joses, yet there were at least some rich people who could and did indulge in the luxury of using glassware. It was just at the first introduction of these vessels to Judea by some rich people that the question about their status in regard to the laws of cleanness came up. The teachers then declared that they were subject to the laws of uncleanness.

they were aware of the basis upon which Jose founded his decision. To this question raised in the Talmud we may add the following question which will disclose another weak point in the explanation of the decision. If this decision of the two Joses was reached by interpreting the biblical term כלי חרס so as to include glassware (because it is made of sand) then their decision was in reality a biblical law, as no distinction can be made between vessels of clay and vessels of sand, both being earthen vessels. Why then was this decision ascribed to the two Joses and characterized as an arbitrary decree, a mere נזירה? The following explanation will give the answer to both questions mentioned above and will remove the difficulties experienced by the talmudic teachers in understanding this decision. Jose and his colleague interpreted the biblical term כלי חרס to mean a vessel made of any kind of earth, and, consequently, he included in it כלי זכוכית which he indeed considered in all respects like כלי חרס. The younger teachers, however, would not accept the broad definition given by Jose to the term כלי חרס so as to include כלי זכוכית also. For this reason they refused to follow Jose in considering glassware like כלי חרס in all respects. Out of respect for the two Joses, some of their contemporaries or successors accepted the decision, but designated it merely as a rabbinical decree, a נזירה. They would therefore apply to כלי זכוכית only certain of the laws of uncleanness that pertained to earthen vessels, כלי חרס. These other teachers would therefore not teach this decision in the Midrash-form together with the passage וכל כלי חרס, as Jose no doubt did. They would teach it as an independent Halakah, as a rabbinical law that has no scriptural basis but rested merely upon the authority of the two teachers.

The motive for accepting a teacher's decision without accepting his proof, may be found either in the respect entertained by the younger teachers for the author of the decision, or in their belief, that the author of the decision was in possession of a tradition unknown to them.⁶⁹ In either case they had no hesitancy in rejecting the proofs which they considered unconvincing or too novel. Whatever their motives, it is certain that the younger contemporaries of Jose or his successors accepted his decisions and taught them in his name although without his proofs for them. The latter they rejected, because they did not approve of his new methods of interpretation.

This attitude, despite its inconsistency, was quite common among the teachers of the Halakah.⁷⁰ The most striking instance of this practice is to be found in the story of Hillel and the Bene Batyra (Yerush. Pesahim 33 a). In this account we are told that all the arguments and scriptural proofs advanced by Hillel in favour of the decision that the Passover sacrifice should set aside the Sabbath were rejected by the Bene Batyra, although Hillel had learned all or most of these proofs and interpretations from his teachers Shemaiah and Abtalion. But when, at last, he told them that he had received the decision itself from Shemaiah and Abtalion, they forthwith accepted the

⁶⁹ Compare the idea expressed in the saying: כך היתה הלכה בידם: ושכחוהו ועמדו השניים והסכימו על דעת הראשונים (p. Shebiit 33 b and p. Ketubbot 32 c). It is possible that such an idea was conceived in very early times, and possibly it was such a view that guided the successors of Jose in their acceptance of his decisions.

⁷⁰ Compare the phrase אם הלכה נקבל ואם לדין יש תשובה (M. Yebamot VIII, 3 and M. Keritot III, 9) which clearly shows that they were ready to accept a Halakah although rejecting the proof offered for that Halakah.

אף על פי שהיה יושב ודורש להן כל היום לא קיבלו ממנו עד same. שאמר יבא עלי כך שמעתי משמעיה ואבטליון. We need not discuss the historicity of this report, a point which is, to say the least, very doubtful. Whatever we may think of the account, we may be sure that its author pictured accurately the attitude which teachers usually assumed towards the decisions given in the name of older teachers. It is evident from this account that its author certainly believed that teachers or authorities like the Bene Batyra (whoever they may have been) were in the habit of accepting decisions given in the name of a departed teacher, even in cases where they would refuse to accept the proofs for the decisions also given in the name of that teacher.⁷¹ Whether this actually took place in the case of Hillel and the Bene Batyra is of minor importance. Accordingly, we learn from this report that in the time of Hillel there were certain teachers who raised objections to the new methods which Hillel had acquired from the great exegetes דרשנים גדולים, Shemaiah and Abtalion. However, the same teachers would not hesitate to accept a practical decision which Hillel reported in the name of these two authorities.

⁷¹ Compare Bassfreund (*op. cit.*, p. 19, note 3). All the difficulties which he finds in this story are removed by our explanation. Most likely Hillel had learned from Shemaiah and Abtalion not only the decision but also all the interpretations which he offered as arguments in favour of the same. He also gave these interpretations in the name of his teachers. The Bene Batyra, however, refused to accept these interpretations, because they objected to the new methods developed by Shemaiah and Abtalion. It was their opposition to these new methods of interpretation which kept them from attending the schools of Shemaiah and Abtalion, and not their negligence, as one might judge from Hillel's reputed remark: עצלות : שהיתה בכם שלא שמישתם שני גדולי הדור. Their respect for these great teachers, however, led them to accept their decision, even though they would not accept their proofs.

That which happened in the time of Hillel also happened in the time of Jose ben Joezer. When he used new methods of interpretation for the first time, his colleagues hesitated to follow him, although they did accept some of the decisions which he derived from the Scripture by means of these new methods.

We can easily understand the reason for such an attitude, inconsistent as it may appear. To accept the proof for a decision implied approval of the method by which that proof was obtained. This would open the door to further application of these new methods, so that there was no way of telling what decisions might be thus arrived at. Against this danger the teachers attempted to guard themselves, but they never went so far as to decide, in any practical case, against the authority of an older teacher. For this reason they would often accept the decision but reject the proofs.

In the above, we have digressed for the purpose of making clear that difference of opinion concerning methods of interpretation prompted the teachers to sometimes divorce a Halakah from the scriptural proof. We have also seen that the three oldest Halakot preserved in Mishnah-form, namely, the three decisions of Jose, owed their present form to this very reason. They were expressed in Mishnah-form by Jose's disciples who felt constrained to reject the proofs advanced by Jose because of the novelty of his methods of interpretation.

Accordingly, it may be stated with certainty that the Mishnah-form was first used to teach those customs and practices which originated during the time when there was no official activity of the teachers. Having no scriptural basis, they could not be taught in connexion with the

Scripture, i.e. in the Midrash-form. The Mishnah-form was further used to teach those traditional laws and decisions which some teachers attempted to derive from Scripture by means of new methods of interpretation. While some of their contemporaries or disciples accepted the new methods, and therefore taught these decisions in the Midrash-form, others, and by far the majority, rejecting the new methods, accepted only the decisions. Finding no convincing proofs for such laws in the Bible, they taught them independently of scriptural proof, i.e. in the Mishnah-form. These two motives for teaching Halakot in the Mishnah-form are really one and the same. Whether no midrashic proof could be found for a decision, or whether the midrashic proof suggested was deemed unconvincing, the motive for the Mishnah-form was the same—the absence of a sound Midrash.

To this first motive there soon were added other motives for the use of the Mishnah-form. Certain considerations in the course of time urged the teachers to extend its use even to such Halakot as had, in their opinion, good scriptural proofs and could well be taught in connexion with the Scripture in the Midrash-form. These other motives and considerations arose from the disputes between the Sadducees and Pharisees. They became stronger and stronger with the ever-widening breach between the two factions.

As the dispute between the parties progressed, the antagonism between them naturally became sharper. Each party came to assume a distinctive attitude towards the Law, and they consistently worked out their respective lines of attack and defence. The Pharisees came to recognize the binding character of the traditional law, תורה שבעל פה,

and demanded that it be considered of equal authority with the written Law. The Sadducees, on the other hand, became more outspoken in their denial that the traditional law possessed absolute authority. These differences had their effect upon the forms used in teaching the Halakah.

As we have seen above, the Midrash was used for the purpose of grafting new decisions and practices upon the words of the written law, when the latter only was considered the sole authority binding upon the people. To give sanction to any decision or traditional law, it was necessary to find for it some indication in the authoritative Book of the Law and thus to present it as contained or implied in the written Law. As soon as Tradition was raised to the rank of the Law and thus recognized as an independent authority parallel to the written Law, there was no longer that urgent need of connecting each and every Halakah with the words of the written Law in the form of the Midrash. A halakic decision based on a tradition was now considered by the teachers, and represented by them, to be just as authoritative as one derived from the written Torah by means of an interpretation or Midrash. The Halakah as traditional law could now stand without the support of a scriptural basis, and could therefore be taught independently in the Mishnah-form. Not only was there no more need for teaching all the Halakot together with the written Law in the Midrash form, but there were also sufficient reasons for the Pharisaic teachers to teach Halakah as traditional law without even attempting to connect the same with the written Law. For, in so doing, they emphasized their belief in the twin-law שתי תורות; that is, the belief that there were two equal sources of religious teaching, one the written Torah and the other

the unwritten Oral Law, both of which must be studied alike, and that one is as important as the other. Of course they continued to develop the Midrash method for the purpose of deriving new Halakot from the one source—the written Law. The Halakot thus derived from the Scriptures were taught together with the latter, in the Midrash-form. In this way, they could well continue to use the Midrash-form even after the Mishnah-form was adopted. They were apprehensive only of using the Midrash-form exclusively, because such an exclusive use might reflect upon their theory of an authoritative Oral Law. The very endeavour to connect all Halakot with the written Law by means of the Midrash would have meant to acknowledge that there was only one Law, namely, the one contained in the Book. They would thus have conceded to the Sadducees the disputed point that the traditional law, *תורה שבעל פה*, was not of equal authority with the written Law, *תורה שבכתב*. By the parallel use of both forms, Midrash and Mishnah, they showed that they treated both sources alike. By teaching in Mishnah-form even such Halakot as could be derived from the written Law and taught in the Midrash-form, they showed that they were not very anxious to find scriptural support for each Halakah. This was a strong expression of their belief in the equal authority of the two *Torot*, a belief that made it of little consequence whether a Halakah was taught in the Midrash-form, as derived from the written Law, or in the Mishnah-form, as a traditional law.

Furthermore, the exclusive use of the Midrash-form threatened to endanger the authority and the teachings of the Pharisees. These apprehensions caused the Pharisaic

teachers to make more extensive use of the Mishnah-form and in some cases even to prefer the same to the Midrash-form. For to give all the halakic teachings of the Pharisees in the Midrash-form as based on the Scripture would have exposed these teachings to the attack of the Sadducees. As we have seen above, the hesitancy on the part of some teachers to recognize the validity of the new interpretations offered in support of certain decisions led to their teaching such decisions in Mishnah-form. The new rules and methods gradually found recognition among the Pharisaic teachers, who would admit the validity of interpretations derived by means of these new methods. Thus they were able to furnish a Midrash for almost every Halakah. But among the Sadducees the objection to these new methods was very strong and they absolutely denied their validity. If the Pharisees arrived at a certain decision by means of a new interpretation, the Sadducees could always dispute that decision by refuting the scriptural proof offered for it. It was possible for them to argue that the Pharisaic interpretation was unwarranted and that the scriptural passage did not mean what the Pharisees tried to read into it. The Pharisees feared that such arguments against their teachings raised by the Sadducees might have a detrimental effect upon the young students and draw them away from the Pharisaic teachings. The Pharisees were well aware that some of their interpretations were rather forced, and that their opponents' arguments against these interpretations were sound. Wherever possible, the Pharisees were, therefore, anxious to avoid such disputes, or to prevent their pupils from entering into them. The easiest way to avoid these disputes concerning the validity of the scriptural proofs for the Pharisaic teachings, was to avoid the mention of any

such doubtful scriptural proofs at all, that is to say, to use Mishnah rather than Midrash.⁷² After the Pharisaic teachers

⁷² It should be noticed that it was only with the younger students that the teachers pursued this pedagogical method of suppressing scriptural proofs, when these were not quite perfect, and of teaching the Halakot in Mishnah-form without any proof whatsoever. They considered it necessary to take this precaution to prevent the young students from being shaken in their belief in tradition and from doubting the authority of the traditional law. To the advanced students, however, they would unhesitatingly communicate all the scriptural proofs or even artificial supports which they had for their teachings. Hence among the advanced students the use of the Midrash-form was prevalent (see above, note 3).

A few talmudic sayings may be cited here to prove that it was the tendency among the teachers to withhold from the students while young the arguments and reasons for the laws and to keep them from disputes with their opponents. Simon b. Ḥalafta says: כבוש כטנים שהתלמידים בשעה שהתלמידים כבוש כטנים כבוש: 'As long as the pupils are young hide from them [some] words of the Torah. When they are more mature and advanced reveal to them the secrets of the Torah' (p. Abodah zarah II, 41 d). Simon b. Johai says: אין לך רשות לשקע עצמך: 'You are not permitted to enter into a deep discussion of the words of the Torah except in the presence of pious and good people' (*ibid.*). By 'pious and good people' בני אדם כשרין are evidently meant people who follow the Rabbis and accept the teachings of the traditional law. According to the Gemara (*ibid.*) the two sayings of Simon b. Ḥalafta and Simon b. Johai go together. There is a subtle connexion between them. This connexion consists in the fact that both aim at the same purpose, viz. not to give the opponents of the Rabbis and the traditional law any opportunity to attack the traditional law by refuting the arguments or proofs brought for the same by the Rabbis.

We see from these two sayings that even as late as the middle of the second century c. E., when the followers of the Sadducean doctrines were no more so strong, neither in numbers nor in influence, the Rabbis were still anxious to avoid disputes with them, and would therefore not tell the young pupils all their arguments and reasons for the laws, lest the opponents might refute them and upset the beliefs of the young pupils. Compare the saying of Jose b. Ḥalafta, אל תתנו מקום לצדוקים לרדות, M. Parah III, 3, and see below, note 80.

In the days of the earlier teachers when the influence of the Sadducees and their followers was stronger, this tendency among the teachers of the traditional law, to keep the young students from entering into discussions

agreed upon deriving a certain Halakah from a given passage, they preferred to teach that Halakah in an independent form without citing passage or interpretation. Such a Halakah or decision could then be received in good faith by the students who followed the Pharisees. The pupils would rely on the authority of the teachers believing that they were in possession of valid proofs for their Halakot, although they did not mention them. On the other hand, the Sadducees could never successfully refute the Halakot thus

with the Sadducees, must of course have been stronger. The saying of R. Eliezer: *מנעו בניכם מן ההגיון והשיבום בין ברכי תלמידי חכמים* (Berakot 17b), probably expresses this tendency to make the young pupils study more the traditional law at the feet of the teachers, and keep them away from studying the scriptural proofs and the arguments for the traditional laws. A very striking illustration of this tendency among the earlier teachers is found in the report of a conversation between Ishmael and R. Joshua b. Hananiah. Ishmael asks R. Joshua to tell him the reason for a certain rabbinical law. Joshua, apparently unwilling to state the real reason, gives him an evasive answer. This does not satisfy Ishmael, and he persists in demanding an explanation. Joshua, instead of replying, simply ignores the question, drops the subject, and begins to discuss another subject (M. Abodah zarah II, 5). The Gemara (35a) reports further that Joshua actually commanded Ishmael to stop asking questions about this Law. He plainly told him, *חשוק שפתיך זו בוו ואל תבהל להשיב* 'Close your lips and be not so anxious to argue'. The Gemara then gives the following explanation for this rather harsh rejoinder. It was a rule with the teachers in Palestine not to give a reason for a new law until at least one year after it was decreed. They feared that some people, not approving of the reason, would disregard and treat lightly the law itself: *דילמא איכא אינש דלא דינמא איכא אינש דלא*. These words are significant. There was only one class of people who might disapprove the reasons of the Rabbis, and these were the followers of Sadducean doctrines. Ishmael must have been a very young student at that time (see Midrash Shir r. I, 2), and R. Joshua did not want to give him the reason for this new rabbinical law, for fear that some of the opponents of the traditional law might be able to prove to young Ishmael that the reason for this law was insufficient. (Compare Joshua's remark against those who question the authority of the traditional law, to be cited below, note 78.)

taught. Not knowing on what basis they rested or what proofs the Pharisees offered for them, they were unable to argue concerning them. Their attacks on these Pharisaic teachings would then consist of mere negations without the force of strong argument. As mere negations are not convincing, such attacks on the part of the Sadducees could not greatly harm the Pharisaic followers.

The teachers, all of the Pharisaic party, were influenced by still another consideration. The tendency to teach only in Midrash-form, showing that all the religious teachings were lodged in the written Torah, threatened to take away from the Pharisaic teachers their prestige and to lend support to the claim of the Sadducees that there was no need of the חכמי ישראל, i.e. the teachers of the Pharisaic party. In the report about the conflict between John Hyrcanus and the Pharisees (Kiddushin 66 a) we are told that the former, at first, hesitated to persecute the חכמי ישראל of the Pharisaic party because he considered them indispensable as teachers of the Law. He is said to have asked תורה מה תהא עליה 'What will become of the Torah' without the Pharisaic teachers? But his Sadducean adviser, who urged the persecution of the Pharisees, told him הרי כרוכה ומונחת בקרן הררי כרוכה ומונחת בקרן, that the Torah would remain, even if the Pharisees would be killed.⁷³ Also that any one could study it because the Pharisees were not the only

⁷³ It makes very little difference whether this story is historically true in all its details or not. It reflects the idea of the Sadducees that the Pharisaic teachers could be dispensed with, and also the insistence of the Pharisees that they were absolutely necessary for the preservation of the Torah. The story mirrors for us the fears that the Pharisees entertained. As we are concerned merely with the motives that prompted the Pharisaic teachers to make the change in the form of their teaching, this story may be taken as an unconscious but accurate description of the consideration which could have moved them.

teachers of the Law. If, then, all the teachings and the Halakot were represented as derived from the Torah by means of interpretation, as is done in the Midrash-form, this claim of the Sadducees would appear justified. There would, indeed, be no need of the חכמי ישראל, of the Pharisaic party. Anyone else could likewise interpret the law correctly and derive from it all the Halakot that are implied therein, for a thorough understanding of the text of the written Law was certainly not limited to the Pharisees. Thus the aim of the Pharisees to assert their authority and to show that they were absolutely necessary for the perpetuation of the religious teachings made it desirable for them to use the Mishnah-form. Even if there had been no objections to their new methods and even if they had been able to find scriptural proofs for all their decisions, they nevertheless thought it advisable not to insist upon connecting their halakic teachings with the written Law in every case. By separating the two, they made themselves indispensable. If there were Halakot not connected with the written Law, one must turn for these teachings to the חכמי ישראל, who alone were in possession of them, and who could not therefore be supplanted by others.

That which was at first but hesitatingly proposed, viz. that there was an oral law alongside of the written Law, was now boldly proclaimed. The Pharisaic teachers were represented as the teachers of tradition who received the oral law through a chain of teachers in direct succession from Moses. Consequently they were the only reliable authorities for the religious teachings. They insisted that their decisions must be accepted as authoritative, with the understanding that they either derived them from some passage in the Scripture by sound interpretation or based

them upon some reliable tradition. The existence of valid proofs was always presupposed. Where no proofs were given, it was implied that they were unnecessary, as the authority of the teachers was beyond doubt. This tendency of the teachers to assert their authority and to maintain the validity of the traditional law did not have its motive in any petty desire for party aggrandizement, but rather in a genuine zeal for the cause, as they understood it. They asserted their authority and the authority of the traditional law for the purpose of freeing the Torah from the fetters of literal interpretation forced upon it by the Sadducees, and developing the Law according to its spirit.

All these considerations caused the teachers to make more and more use of the Mishnah-form, but were not sufficient to make them abandon the Midrash-form. The Midrash-form still had many advantages. It was the older form to which they had long been accustomed. It also afforded a great help to the memory, as the written word can be relied upon to remind one of all the Halakot based upon or connected with it. Consequently they used both forms. Those Halakot which were based upon a sound and indisputable interpretation of a scriptural passage they taught in the Midrash-form, i.e. in connexion with the scriptural proofs, and they arranged them in the order of the scriptural passages. But those Halakot for which the scriptural proofs were in dispute, they taught in the Mishnah-form and grouped them according to some principle of arrangement, such as number-mishnahs or other formulas, for the purpose of assisting the memory. In the course of time, the number of the Halakot taught in the Mishnah-form grew in proportion to the increase and the development of the halakic teachings. A great many of the new Halakot,

both new decisions and new applications of older laws, were taught in the Mishnah-form by some teachers, because they could not find satisfactory scriptural support for them. It will be recollected that the decisions of Jose ben Joezer were given in the Mishnah-form for the same reason.

The process of development from the Midrash of the Older Halakah to the Midrash of the Younger Halakah was marked by constant struggles, in which the older methods tried to maintain themselves as long as possible. In each generation (at least until the time of the pupils of R. Akiba) the teachers were divided as to the acceptance of these new methods. Some teachers clung to the older ways and would not follow the daring applications of some new rules of the younger teachers. With the growth and development of the new methods, which only slowly and gradually won recognition with all the teachers, the number of Halakot connected with the Scriptures by means of these new exegetical rules, also grew. Such Halakot were then taught by different teachers in different forms. Those teachers who approved of all the new methods consequently considered the interpretations reached by these methods as sound, and the Halakot proved thereby as well founded in the Written Law. Accordingly, they would not hesitate to teach these Halakot together with their proofs, that is, in the Midrash-form. But those teachers who hesitated to accept the novel methods and the new interpretations based thereon, but who still accepted the Halakot, did so because they considered them as traditional, or because the same represented the opinion of the majority. Having no sound proofs, in their opinion, for these Halakot, they were compelled to teach them in the Mishnah-form, without any scriptural proof.

We find many such cases in the tannaitic literature. Of these we shall mention only a few ; in Sifra, *Zav* XI (ed. Weiss 34 d-35 a), R. Akiba tries to prove by one of his peculiar methods of interpretation that a 'Todah'-offering requires half a 'log' of oil. But R. Eleazar ben Azariah said to him: 'Even if you should keep on arguing the whole day with your rules about including and excluding qualities of scriptural expressions, I will not listen to you. The decision that a "Todah"-offering requires half a "log" of oil is to be accepted as a traditional law.'⁷⁴ אפילו אתה אומר כל היום כולו בשמן לרבות בשמן למעט איני שומע לך אלא חצי לוג שמן לתורה הלכה למשה מסיני. The emphatic expression איני שומע לך 'I will not listen to you', in the statement of Eleazar b. Azariah shows that he strongly objected to Akiba's method of interpretation, and that he considered such proof, not merely unnecessary, but also unsound. If Eleazar was actually in possession of a tradition for this law, it would have been sufficient to say איני צריך 'There

⁷⁴ It is very doubtful whether R. Eleazar b. Azariah himself used the term הלכה למשה מסיני to apply to this law (notwithstanding Bacher, 'Die Satzung vom Sinai', in *Studies in Jewish Literature published in honour of Dr. K. Kohler*, Berlin, 1913, p. 58). It is more likely that the words למשה מסיני are a late addition and not the words of R. Eleazar. R. Eleazar said merely that this rule was a traditional or rabbinical law, הלכה. A later teacher, who understood the term הלכה to mean 'Sinaitic Law', added the words למשה מסיני. There are many such instances where a later teacher enlarges the term הלכה, used by an older teacher, to הלכה למשה מסיני, simply because he, the later teacher, understood the term הלכה in this sense. But this interpretation, given by a later teacher, to the term הלכה which was used by an older teacher, is not necessarily correct. Thus, for instance, the term הלכה used in the statement of the Mishnah והערלה הלכה (M. Orlah III, 9) is interpreted by R. Johanan to mean הלכה למשה מסיני (p. Orlah 63 b, b. Kiddushin 38 b-39 a), while Samuel explains it merely to mean simply a law or custom of the land הלכתא מדינה (*ibid.*).

is no need of scriptural proof'. It is evident that this Halakah could not be based on an indisputable traditional law.⁷⁵ R. Akiba, therefore, desired to give it support by proving it from the Scriptures. He, no doubt, taught it in the Midrash-form together with the passage from which he endeavoured to prove it. But R. Eleazar b. Azariah, who did not approve the interpretation of R. Akiba, although he accepted the Halakah, naturally taught it as a traditional law, and, of course, in Mishnah-form.

Another example is to be found in the reasoning used to justify the ceremony performed with the willow, ערבה. This, no doubt, was an old traditional custom. Abba Saul, however, declared it to be a biblical law, deriving it from the plural form נחל ערבי used in the passage of Lev. 23. 40. This passage, according to Abba Saul, speaks of two willows. One is to be taken together with the Lulab, and the other separately for the special ceremony with the ערבה. Abba Saul, no doubt, taught this Halakah in the Midrash-form as an interpretation of the passage in Lev. 23. 40. The other teachers, however, did not accept this interpretation. They considered this ceremony a mere traditional law, הלכה למשה מסיני (Jerush. Shebiit 33 b), and, of course, taught it in the Mishnah-form.

⁷⁵ It is absolutely impossible to assume that R. Akiba refused to believe the statement of R. Eleazar b. Azariah that he had a tradition in support of this law. The contrary must, therefore, be true. R. Eleazar rejected the Midrashic proof given by R. Akiba but accepted the law as a mere הלכה, i. e. as a rabbinical or traditional law. It may be, however, that this law was really an older traditional law, though not הלכה למשה מסיני, and that R. Akiba tried to give it a scriptural support while R. Eleazar preferred to teach it as a detached Halakah, i. e. in Midrash-form. Compare the statement in Niddah 73 a in regard to another law which R. Akiba derived from a scriptural passage, while R. Eleazar b. Azariah preferred to teach it as a mere Halakah, לרבי עקיבא קראי לרבי אלעזר בן עזריה הילכתא.

7. Mishnah

The same was also the case with the ceremony of the water-libation, נסוך המים, which R. Akiba, by means of a forced interpretation, tried to represent as a biblical law. The other teachers did not accept his interpretation. They considered it merely a traditional law, הלכה למשה מסיני (*ibid.*), and, of course, taught it in the Mishnah-form. In this manner, the same decisions were sometimes taught by some teachers in the Midrash-form, while other teachers taught them in the Mishnah form.⁷⁶ Thus the two forms continued in use according to the preference of the teachers. The parallel usage of these two forms continued long after Sadduceeism had ceased to be an influential factor in the life of the people, and the Pharisaic teachers had become the only recognized teachers of the Law. The Mishnah-form was retained by the teachers even after the new methods of interpretation had become generally accepted. In spite of the fact that these methods were developed to

⁷⁶ The very frequency with which the Amoraim declare scriptural interpretations of the Tannaim to be merely artificial supports, אסמכתא בעלמא, for rabbinical or traditional laws (see Bacher, *Die exegetische Terminologie der jüdischen Traditionsliteratur*, II, pp. 13-14), shows that it must have been frequent among the Tannaim to consider some interpretations as mere artificial supports and not real proofs. Otherwise, the Amoraim would not have doubted the validity of a tannaitic Midrash. It was only because they knew that the Tannaim themselves had frequently rejected a Midrash as unacceptable, that the Amoraim dared declare that some tannaitic interpretations were merely artificial supports.

Perhaps we have in the expressions מרבנן וקרא אסמכתא בעלמא and וקרא אסמכתא גמירי לה an attempt at harmonization on the part of the Amoraim for the purpose of explaining away the differences of opinion between the older teachers. They mean to tell us that the older teachers always agreed as to which laws were traditional and which were derived from the Scriptures by means of interpretation. However, in the case of certain traditional laws, some of the teachers sought to find an additional artificial support for the same for the mere purpose of connecting them with the Scriptures—not because they doubted their traditional character.

such an extent that one could interpret any passage to mean almost anything, and thus provide scriptural proofs for all possible decisions, the teachers, having habituated themselves to the Mishnah-form adhered to it. An additional reason for its retention may be found in the fact that the Mishnah-form itself had in the meantime improved. It lent itself to new principles of arrangement and grouping which gave it decided advantage for systematic presentation of the Halakah, and thus made it a desirable form of teaching.⁷⁷ The teachers themselves having in the meantime become accustomed to the idea of an oral law equal in authority to the written Law, now considered it unnecessary to seek scriptural proof for each and every law. They would occasionally even separate Halakot, based upon sound scriptural proofs, from their Midrash bases for the purpose of presenting them more systematically in Mishnah-form. R. Akiba, the boldest advocate of new Midrash-methods, was himself the one who helped to retain the Mishnah-form by improving it and introducing therein the principle of topical arrangement.

Thus, out of the one form evolved our Mishnah, a collection of Halakot in independent form arranged topically. Out of the other developed our halakic Midrashim, Mekilta, Sifra, and Sifre, which furnish a running commentary on the Books of the Law.

⁷⁷ This may seem as if we accepted the view of Frankel and Weiss about the advantages offered by the systematic arrangement of the Mishnah. But it was only after the Mishnah had been long in use and developed its system of grouping that it could be deemed advisable to arrange all the Halakot in Mishnah-form, while Frankel and Weiss assume that these advantages offered by the Mishnah in its later stage only were the cause of the change from Midrash to Mishnah. This, of course, is wrong, as the earlier Mishnah did not offer these advantages.

(To be continued.)

A VOLUME OF THE BOOK OF PRECEPTS

BY HEFEŞ B. YAŞLIAH

By B. HALPER, Dropsie College.

HEBREW TRANSLATION

I a

”זכר את הטומאה נעלמו זה וזה והשתחוה או ששהה כרי השתחואה
או שנדבר עם חברו כרי השתחואה או שנכנס לתוספת העזרה ושהה כרי
השתחואה אינו חייב על כל אחת ואחת דברי ה' ישמע' שהיה ה' ישמע' אומ' ונעלם
ממנו ונעלם ממנו שני פעמים לחייב על העלם טמאה ועל העלם מקדש
5 ה' אליעזר ור' עקיבא אומ' אינו חייב אילא על טמאה בלבד.” ואמרו:
”ונעלם ממנו נעלמה ממנו טמאה או יכול נעלם ממנו מקדש תלמ' לומ'
ונעלם ממנו והוא טמא על העלם טמאה הוא חייב ואינו חייב על העלם
מקדש דברי ה' עקיבא ה' אליעזר אומ' השרץ ונעלם ממנו על העלם השרץ
הוא חייב אין חייב על העלם מקדש ה' ישמ' אומ' ונעלם ממנו ונעלם ממ'
10 שני פעמים לחייב על העלם טמאה ועל העלם מקדש.” ואמרו: ”תניא מנין
שאינו חייב אילא על שיש בו ידיעה בתחלה וידיעה בסוף והיעלם בינתיים
תלמ' לומ' ונעלם.” והתלמוד אומר בבאור ההשתחואה: ”אמ' רבה לא שנו אילא השתחוה
כלפי חוץ אבל השתחוה כלפי פנים אף על גב דלא שהא: והא השתחוה
קאתני הכי קאמ' איוו היא השתחואה שאין בה שהייה ואיוו היא השתחואה
15 שיש בה שהייה שאין בה שהייה כריעה שיש בה שהייה פשוט ידיים ורגלים
וכמה שיעור שהייה פליגי בה ה' יצחק בר נחמני וחד דעימיה ומנו ה'
שמעון בן פוי ואמרי לה ה' שמעון בן פוי וחד דעימיה ומני ה' יצחק בר נחמני
ואמרי לה ה' שמעון בר נחמני חד אמ' מכריעה ואילך וחד אמ' כנגד הפסוק
כלו וכל ישראל ראים בדרת הא' וג'.” ובפסוק הזה כ”ב מלים.

המדליק את הבערה וצאה ממקום

המצוה התשיעית ממנו.

20

דליקתה ומצאה קוצים ואכלה גדיש או קמה

או דבר אחר הנמצא בשדה חייב לשלם דמי הנזק, כמו שכתוב: "כי תצא איש ומצא", המדליק את הבערה והמביא אותה ויטרפה שוים בתשלומי הנזק, אבל אם סבת דליקתה היתה נשיבת הרוח, לא דבר אחר, המביא פטור, כמו שאמרו: "כי תצא איש

I b

ומצאה קוצ' וז' כי תצא מעצמה שלם השלם המבעיר את הבע' פתח הכתוב בנזקי ממנו וסיים בנזקי נפשו" ועוד: "השלח את הבערה ביד חרש שומה

וקמן פטור מדיני אדם וחייב בדיני שמים שלח ביד פקח הפקח חייב

אחד מביא את העצים ואחד מביא את האור המביא את האור חייב בא

5 אחר ולבה המלכה חייב לבתו הרוח כלם פטורין. והמתכוין להדליק

ושאינו מתכוין שוים בתשלומים, כמו שאמרו: "אדם מיעד לעולם בין

שונג ובין מזיד בין ער ובין ישן סמא את עין חברו ויטבר את הכלים

משלם נזק שלם." ועוד: "לעשות שאין מתכוין כמתכוין." ואם

עברה האש נהר או שלולית ישרחב כל אחד מהם שמנה אמות, או שהיה רחב

10 דרך הרבים שיש עשרה אמה ומעלה ואכלה איזה דבר, אינו חייב לשלם דמי הנזק

או זולתו. אבל אם היה הנהר או השלולית ודרך הרבים פחותים מן השעור הזה

חייב לשלם דמי הנזק, כמו שאמרו: "עברה נהר או שלולית שהן רחבין שמנה אמות

פטור." ועוד: "עברה נדר שהוא נבזה ארבע אמות או דרך הרבים או נהר

פטור." ואמרו: "דרך הרבים מאן תנא אמ' רבא ר' אליעזר היא דאש' שיש עשרה

15 אמה דרך הרבים." ומי שהדליק בערה ברשותו ונתרוממה היא או ניצוציה,

או נתחזקה ויטרפה רשותו של חברו, צריכים לראות אם היה בשעור נופת,

ישרצה בו המדליק, כדי לעבר מרשותו אל הרשות שניטרפה, חייב המדליק

לשלם את הנזק; אבל אם לא היה בכח נופת כדי לעבר מרשותו אל הרשות

שניטרפה, והסכה הנורמת לטרפה היתה רוח זמני, או דבר אחר, שחזק שלהבתה,

20 המדליק פטור, כמו שאמרו: "המדליק בתוך שלו כמה תעבר הדלקה ר' אלעזר

בן עזריה אומ' רואין אותה כאלו היא באמצע בית כור ר' אליעזר אומ' שיש

עשרה אמה דרך הרבים ר' עקיבה אומ' חמישים אמה ר' שמעון אומ' שלם

ישלם המב' א' ה' הכל לפי הדלקה." "אם רב נחמן אמ' רבה בר אבבה אמ'

2 a

רַב הַכֵּל לִפִּי נֹבַחָהּ שֶׁל דִּלְקָה אִם רַב יוֹכֵף אִם רַב יְהוּדָה אִם שְׁמוּאֵל הַלֵּכָה
כִּי "שְׁמַעוֹן." וְהַתּוֹסֵפֶת אֹמֶרֶת בְּדַבָּר הַשְּׁעוֹר שֶׁתַּעֲבֹר אוֹתוֹ הַבַּעֲרָה שֶׁהַדִּלְקָה,
כִּשְׁהִיְתָה הָרוּחַ מְנֻשֶּׁבֶת, וְאִכְלָה אִיזָה דָּבָר: "הַמְדִּלֵּק בְּתוֹךְ שְׁלוֹ כִּמָּה תַּעֲבֹר הַדִּלְקָה וְ
אֲלֵעִזָּר אוֹם שֵׁשׁ עִשְׂרֵה אִמָּה דֶּרֶךְ הָרַבִּים בְּשַׁעַת הָרוּחַ שְׁלֹשִׁים
אִמָּה וְ יְהוּדָה אוֹם שְׁלֹשִׁים אִמָּה בְּשַׁעַת הָרוּחַ חֲמִשִּׁים אִמָּה וְ עֻקִּיבָה אוֹם
חֲמִשִּׁים אִמָּה בְּשַׁעַת הָרוּחַ שְׁלֹשׁ מֵאוֹת אִמָּה מַעֲשֵׂה בַּעֲרֵב שֶׁקִּפֵּץ הָאוֹר
יֵתֵר מִשְׁלֹשׁ מֵאוֹת אִמָּה וְהוֹקֵץ יוֹב מַעֲשֵׂה שֶׁעֲבָרָה הַדִּלְקָה אֶת הַיָּרְדֵּן
שֶׁהִיְתָה קֶשֶׁה בְּמֵה דְּבָרִים אֲמוּרִים בּוֹמֵן שֶׁקִּפְצָה אֲבָל אִם הִיְתָה מִסְכַּסְכַּת
וְהוֹלֵכֶת אוֹ שְׁהִי עֲצִים מְצוּיִים לָהּ אֲפִילוֹ עַד כִּיל הָרִי זֶה חַיִּיב עֲבָרָה נֶהָר
אוֹ נָדָר אוֹ שְׁלוּלִית שֶׁהֵן רַחֲבִין שְׁמֵנָה אֲמוֹת פֶּטוּר." וְאִם אִכְלָה גִּדִּישׁ 10
וְנִשְׂרָפוּ בִּינְתִים כָּלִי זְרִיעָה אוֹ גִּדִּישׁ אוֹ כִּבְשִׁים כְּפוֹתִים, אוֹ דָּבָר אֲחֵר
שֶׁדָּרְכוּ לַהֲנִיחוֹ שֶׁם, חַיִּב הַמְדִּלֵּק לִשְׁלֵם דְּמֵי כֶּלֶם. אֲבָל אִם
נִשְׂרָף בִּינְתִים דָּבָר שֶׁאֵין דָּרְכוּ לַהֲנִיחוֹ שֶׁם, אֵינוֹ חַיִּב לִשְׁלֵם.
וְאִם אִכְלָה בֵּית דִּירָה חַיִּב לִשְׁלֵם גַּם דְּמֵי כָּל מֵה שֶׁנִּשְׂרָף בְּתוֹכוֹ, כִּמוֹ שֶׁאָמְרוּ:
"הַמְדִּלֵּק אֶת הַגִּדִּישׁ וְהָיוּ בּוֹ כִּלִּים וְ יְהוּדָה אוֹם מִשְׁלֵם כָּל מֵה שֶׁבְּתוֹכוֹ וְחִכָּם 15
אוֹם אֵין מִשְׁלֵם אִילָא גִדִּישׁ שֶׁל חֲטִים אוֹ גִּדִּישׁ שֶׁל שְׁעָרִים הִיָּה גִדִּי כְּפוֹת לוֹ
וְנִשְׂרָף עִמּוֹ חַיִּיב עֲבָר כְּפוֹת לוֹ וְגִדִּי כִּמוֹךְ לוֹ וְנִשְׂרָף עִמּוֹ פֶּטוּר וּמוֹדִים חִכָּם
לִּי יְהוּדָה בְּמִדְּלֵק אֶת הַבִּירָה שֶׁמִּשְׁלֵם כָּל מֵה שֶׁבְּתוֹכָהּ שֶׁכֵּן דֶּרֶךְ בְּנֵי אָדָם לַהֲנִיחַ
בְּבָתִּים." וְאָמְרוּ: "וְ יְהוּדָה סָבַר יִשְׁלֵם כָּל מֵה שֶׁבְּתוֹכוֹ וְאֲפִילוֹ אֲרָנָקִי וְרַבֵּן
סָבְרִי כִּלִּים הָרָאוּיִן לָהּ אֵין שֶׁאֵין רָאוּיִן לָהּ לֹא וְמָה אֵינְהוּ מוֹרֵנִין וְכָלִי בִּקְר." 20
וְעִנֵּן דְּבָרָיו אוֹ הַשְּׁדָה (מִשּׁוֹם שֶׁכָּתַב אוֹ) כָּל דָּבָר שֶׁמִּנְחִים בְּשָׂדוֹת כִּנּוּן עֲצִים וְקִנִּים
וְאֲבָנֵי הַבִּנְיָן וְהַדּוּמָה לָהֶם; וְהַמְדִּלֵּק חַיִּב לִשְׁלֵם דְּמֵי כֶּלֶם, כִּמוֹ שֶׁאָמְרוּ: "וְכֵן סוֹר שֶׁל קִנִּים
וְשֶׁל קוֹרוֹת וְכֵן מִדְּבִיךְ שֶׁל אֲבָנִים וְשֶׁל צְרוּרוֹת שֶׁהַתְּקִינָן לְסִיד שֶׁנָּא אוֹ הַקְּמָה

2 b

אֶף הָאֵילָן בְּשִׁמְעֵי אוֹ הַשְּׁדָה אֲפִילוֹ לַחֲבָה אֶת הָעֵפֶר." וְשְׁמֵנָה הַמְצוֹת הַלָּלוּ
שֶׁנִּזְכְּרוּ לַמַּעֲלָה, הַחֹבֶה לְנִבּוֹת אֶת הַתְּשֻׁלוּמִים מִפְּרִשַׁת בָּהֶן; וְרַק בְּאֶרֶץ יִשְׂרָאֵל,

לא בנולה, כמו שאמר רבא: "אדם באדם ואדם בשור אין גובין אותו בבבל." כונתו:
 אדם שהזקק באדם ואדם שהזקק בשור. ואם עלתה בידי ראובן בחוץ לארץ
 5 ותפש משמעון התשלומים הנגבים בארץ ישראל, והתאונן שמעון על זה
 אל השופט, אין השופט צריך להוציאם מראובן ולהחזירם לשמעון,
 כמו שאמרו: "השתה דאמרת פלגא נזקא קנאסא האי כלבא דאכל אמרי וטנארא
 דאכלה תרנגולא משונה הוא ולא מגבינן בבבל ואו תפש לא מפקין מיניה."
 ואמרו: "ההוא גברא דאלם ידא דינזקא אתא לקמיה דראבא אז' לו לישמו
 10 ליה כעבדא חיבי דאין רבא הכי והא רבא הוא דאז' כל ששמן אותו כעבד
 אין גובין אותו בבבל אין הכי נמי ואילא שאני הכא דאקדם ניזק תפש."
 ואם התאונן [ראובן] על שמעון, יכריח השופט את שמעון לרצות את ראובן. והרצוי
 בזה אינו קצוב כמו שהוא קצוב בארץ ישראל. ושעורו בחוץ לארץ כפי שיפשרו
 ביניהם הנאמנים שבאנשי המקום, לפי השגת ידי בעלי הדין בזמן ההוא. ואם
 15 מאן שמעון לקבל עליו את הדין מנדים אותו. אבל אם שמעון קבל עליו וראובן
 אינו רוצה להתפשר מעידים לטובת שמעון. ואם בקש ראובן להביא את שמעון לארץ ישראל
 להשפט עמו שם שומעים לו. ואם מאן שמעון ללכת עמו מנדים אותו, כמו שאמרו: "ואי
 אז' אומניה לדינא בהדי לארץ יש' מומנין ליה ואו לא אויל משמתינן
 ליה ובין כך ובין כך משמתינן ליה לסלוקיה הזיקה מדר' נתן דתניא ר' נתן
 20 אוז' מנין שלא יגדל אדם כלב רע בתוך ביתו ויעמיד סלם רעוע בתוך
 ביתו תלמ' לזמ' ולא תשים דמים בביתך." נשלם באורנו של החלק
 השלישי הכולל תשע המצות שנזכרו למעלה.
 החלק הרביעי כולל אחת עשרה מצות שאין חובה לעשותן בזמן הזה

3 a

לא בארץ ישראל ולא בחוצה לה. מהן תשע מצות עשה ושתים מצות לא תעשה.
המצוה הראשונה ממנו. אם שור ילד נודע לגנח גנח
 איש, ומת האיש ההוא, חייבים לסקל את השור ואסור לאכל את בשרו, ובעליו
 נקי מזה, כמו שכתוב: "וכי יגח שור את איש וגו'." ובקבלה נכלל שנגיפה ונגיפה
 5 ורביצה ובעיטה שוות בתורת נגיפה, כמו שאמרו: "כגוס שורך ואני אשמרנו

הזק חייב הזיק פטור כנוס שורך ושמרו הזק פטור הזיק ו מאיר אומ
משלם נזק שלם וחכמ אומ על השן ועל הרגל משלם נזק שלם על נניחה ועל
נניפה ועל נשוכה ועל רבוצה ועל בעוטה מועד משלם נזק שלם ותם משלם
חצי נזק. וצריכים לסקל את כל אחת מהבהמות בין שדרכן לטרף ובין שאינן
טורפות, וכן הדין במיני העופות, כשעשו באדם כמעשה השור הננח, שסוקלים 10
אותו בשביל זה, כמו שאמרו: "לעשות שאר בהמה וחיה ועוף כיוצא בשור." ואם
מכרו הבעלים את השור הזה או הקדישוהו, קודם שעמדו בדין בשבילו מותר,
אבל אחרי כן אסור, כמו שאמרו: "שור תם שהמית עד שלא עמד בדין מכרו מכור
והקדשו מוקדש שחטו ונתנו במתנה מה שעשה עשוי קדמו בעלי חובות והנהיגוהו
בין חב עד שלא הזיק ובין הזיק עד שלא חב מה שעשה עשוי ומשעמד בדין 15
מכרו אינו מכור הקדישו אינו מוקדש שחטו ונתנו במתנה לא עשה כלום
קדמו בעלי חובות והנהיגוהו בין חב עד שלא הזיק ובין הזיק עד שלא חב
לא עשה כלום לפי שאינו משתלם אילא מנפו." ואסור להקריבו, אבל ימכר
ויוציאו רמיו לבדק הבית, או יעזב לנפשו וישמש לקדש. ודבריו את האיש או את
האשה וכללו גם כן טמטם ואנדרגנוס וקטנים, כמו שאמרו: "אין לי אילא איש 20
ואשה מנין לרבות קטן וקטנה וטמטום ואנדרגנוס תלמ לומ את האיש
או את האשה," ואם לפירד את השור הזה לננח, והרגל לעשות כזה, כנון שור
האצטדין, וננח והמית, אין צריכים להמיתו, כמו שאמרו: "שור האצטדין אינו חייב
מיתה שנ כי ינח ולא שיניחוהו," ועוד: "שור האצטדין כשר לנבי מזבח מפני

3 b

שהוא כמעוסה," ולחזק דבריו "ולא יאכל את בשרו" נוסף גם האסור
להנות ממנו. וכן הדין גם במקצת הדברים האסורים שנאמר
בהם "לא יאכל," "לא תאכל," "לא יאכלו," לא בכלם, כמו שאמרו: "אם ו אלעזר
כל מקום שנ לא יאכל לא תאכל לא יאכלו אחד איסור אכילה ואחד איסור הנאה
במשמע עד שיפרוט לך הכתוב כדרך שפרט לך הכתוב בנבלה לנר 5
אשר בשעריך ולנוי במכירה דתניא לא תאכלו כל נבלה," ולרבותינו בזה באורים
ופרטים שנזכרים בקצרה בשביל אריכותם. ובעל השור נקי — פטור הוא מכל יתר

התוצאות. והדברים שבעל השור המועד, רצוני לומר, שהועד עליו שהנו שור
 ננח, חיב בהם, אין בעל השור שלא נודע שהנו ננח, רצוני לומר תם,
 10 חיב בכלם. והדברים שבעל השור המועד חיב בהם הם חמישה. צריך הוא לעדות
 עדים שיעידו עליו. חיב לשלם נזק שלם וצריכים להמית את השור אם ננח
 בכונה; אבל אם לא נתכוין לננח אינו חיב מיתה, אלא משלם את הכפר. חיב
 לשלם לעבד שלשים שקלים. חיב להחזיר דמי הנשחת. וצריך לשלם
 מכספו, וכלם חמישה דברים. והדברים שבעל השור שלא נודע לננח
 15 חיב בהם הם שנים. האחד מהם: חיב לשלם חצי דמי הנשחת והנפסד; ואם
 ננח והמית ולא התכוין לננח את ההרוג, אינו חיב מיתה. והשני: צריך הוא
 לשלם מגוף המזיק, לא מכספו, כמו שאמרו: "חמישה דברים בין שור
 תם למועד מועד צריך עדים ותם אין צריך עדים מועד משלם את
 הכופר ותם אינו משלם את הכופר מועד משלם שלשים סלע ותם אינו נתן
 20 שלשים סלע מועד משלם נזק שלם ותם משלם חצי נזק מועד משלם מן
 העלייה ותם משלם מגופו." ועוד: "יש חייב בכפר ופטור מן המיתה ויש
 שחייב במיתה ופטור מן הכפר יש שחייב בזה ובוה ויש פטור מזה
 ומזה מועד בכונה חייב בזה ובוה תם שלא בכונה פטור מזה ומזה
 מועד שלא בכונה חייב בכפר ופטור מן המיתה תם בכונה חייב במיתה
 25 ופטור מן הכפר." **המצוה והשניה ממנו.** מי שיש לו שור ננח

4 a

מתמול שלשום והתרו בו שישמרנו ולא שמרנו, והמית איש, חיבים לסקל את
 השור, וגם הוא ראוי למיתה בירי שמים, ואם חיבוהו לתת כפר הננח יתן כל
 מה שהושט עליו בפשרה, כמו שכתוב: "ואם שור ננח הוא מתמול שלשום וג' אם
 כפר י' ע' וז' או בן יג' וז'." כונת מתמול שלשום — שלשה ימים רצופים, כמו שאמרו: "ר'
 5 יהודה אומ' מועד שהעירו בו שלשה ימים זה אחר זה." ועוד: "יום ואמש
 ושלפניו." והועד בבעליו — גם בפני השופט, כמו שאמרו: "לעולם אין נעשה
 שור מועד עד שיעידוהו בפני הבעלים ובפני בית דין העידוהו בפני הבעלים
 ולא בפני בית דין בפני בית דין ולא בפני הבעלים אין נעשה שור מועד עד

שעידוהו בפני בעלים ובפני בית דין העידוהו בפני שנים יום ראשון ובפני
 10 שנים יום השני ובפני שנים יום השלישי הרי אלו ג' עדויות והן עדות
 אחת. ולא ישמרנו בעליו — אם לא שמרו בשחיטה, כמו שאמרו: "ר' אליעזר אומ'
 אין לו שמירה אלא סכין." וגם בעליו יומת — מיתה בידי שמים, כמו שאמרו: "שור
 שנגח את האדם ומת מועד משלם את הכפר ותם פטור מן הכפר וזה
 וזה חיבין מיתה וכן בבן וכן בבת." ואמרו בבארם את הרבר הזה: "אתה אומ'
 15 בידי שמים או אינו אלא בידי אדם וכשהוא אומ' לא תקחו כפר לנפש רוצח ונ' הא'
 אין נותנין פדיון למומתין בידי אדם אבל נותנין פדיון למומתין בידי שמים."
 ועוד אמרו: "אמ' חזקיה וכן תנא דבי חזקיה מות יומת המכה רוצח הוא על
 רציחתו אתה חורגו ואין אתה חורגו על רציחת שורו." אם כפר יושת
 עליו — בית דין מכריחים אותו שירצה את בעל דינו, כמו שאמרו: "יכול אם אמר
 20 לו מנה יהא נותן לו מנה ואם אמ' מאה מנה יהא נותן מאה מנה נאמר כן יושת עליו
 ונאמר להלן ישית מה יושת עליו האמור להלן בבית דין אף האמור כן בבית דין." ובקבלה
 נכלל שעשרים דברים שהתורה לא הזכירם, אין אנו מענישים את העושה אותם, אלא
 האלהים יתברך יענש אותה. המבעת את חברו בדבר שהטריף את דעתו, כמו שאמרו: "המבעת
 את חברו פטור מדיני אדם ודינו מסור לשמים." המבעת בהמת חברו
 25 ונשתתתה, כמו שאמרו: "המבעית בהמת חברו פטור מדיני אדם ודינו מסור
 לשמים." המלעיט בהמת חברו מאכל רותח או דבר מר

4 b

או צאה או סם המות, כמו שאמרו: "הלעיטה חלתית הרדופני וסם המות
 וציאת התרנגולין פטור מדיני אדם ודינו מסור לשמים." הנותן
 אפר פרה אדמה ומה שמוים ממנה לעשות בה אחת המלאכות, והמשקה
 את אחת הבהמות מי חטאת, כמו שאמרו: "העושה מלאכה במי חטאת ובאפר חטאת
 5 והנותן מי חטאת לפני בהמת חברו פטור מדיני אדם ודינו מסור לשמים." שליה בית דין
 שנצטוו להכות מלקות ארבעים והכה מכה אנושה, כמו שאמרו: "שליה בית דין שהכה
 ברשות בית דין והזיק פטור מדיני אדם ודינו מסור לשמים." רופא אמן
 שרפא ברשות בית דין והזיק, כמו שאמרו: "רופא אומן שרפא ברשות בית דין

והזיק פטור מדיני אדם וחייב בדיני שמים, ממחה באחת החכמות שצוה
 10 לחתך עובר מת ממעי אישה כדי שלא תמות בשבילו והזיק לה
 בינתים, כמו שאמרו: "המחתך את העובר במעי אישה ברשות בית דין והזיק
 פטור מדיני אדם ודינו מסור לשמים." הפורץ גדר כדי שתרגינה דרך בו
 בהמות חברו. הכופף קמה או תבואה אחרת של חברו בפני
 דליקה שחממתה ויבשתה או שרפתה. השוכר עדים להעיד.
 15 המכחד עדות הצריכה לחברו והיא לרעתו; כמו שאמרו: "אמ' ר' יהוש' בן לוי
 ארבעה דברים העשה אותם פטור מדיני אדם וחייב בדיני שמים ואילו הן הפורץ גדר
 בפני בהמת חברו והכופף קמתו של חברו בפני הדליקה והשוכר עדי שקר לחברו
 להעיד והיודע עדות לחברי ואינו מעיד לו." השולח את הבערה ביד חרש שוטת
 או קטן והזיקה, כמו שאמרו: "השולח את הבעירה ביד חרש שוטת
 20 וקטן פטור מדיני אדם וחייב בדיני שמים." מי שנשבר כליו
 בדרך הרבים ולא אספן, וההולך שם יעצר בשבילו, כמו שאמרו: "נשברה כדו
 ולא סלקה פטור מדיני אדם ונ." המתרגל להעמיד בהמתו שנפלה
 ולא הקימה, כמו שאמרו: "נפלה נמלו ולא העמידה פטור מדיני אדם ונ."
 המצנע להמית נפש נקה ונהרגה על ידי זה, כמו שאמרו: "תניא האומר
 25 לשלוחו צא והרג את הנפש הוא חייב ושולחו פטור שמאי אולם משום חני

5 a

הנביא שולחו חייב שז' ואתו הרגת בהרב בני עמון ונ' מאי שולחו חייב בידי
 שמים, ואמר ר' שמעון בדבר החיובים, כשהזיקה הבהמה ברשות בעליה וברשות
 שאינה של בעליה וברשות המשותפת לבעל המזיק ולבעל הנזק, וכיוצא בזה:
 "ארבעה דברים היה ר' שמעון בן אלעזר אומ' בנזקין כל מקום שיש רשות לנזק
 5 ולא למזיק חייב בכל למזיק ולא לנזק פטור מן הכל לזה ולזה כגון חצר השותפין
 והבקעה על השן והרגל פטור על נניחה ועל נניפה ועל נשיכה ועל רביצה ועל
 בעיטה מועד משלם נזק שלם ותם משלם חצי נזק וכל מקום שאין רשות לא
 לזה ולא לזה כגון חצר שאינה של שניהם על השן ועל הרגל משלם נזק שלם ועל
 נניחה ועל נניפה ועל נשיכה ועל רביצה ועל בעיטה מועד משלם נזק שלם

10 ותם משלם חצי נזק ר' אלעזר ור' שמעון אומ' ר' טרפון אומ' על הכל משלם נזק שלם וחכמ' אומ' על השן ועל הרגל משלם נזק שלם ועל נניחה ועל נגיפה ועל נשיכה ועל רביצה ועל בעיטה מועד משלם נזק שלם ותם משלם חצי נזק. ויש בזה דיוקים שהזכירו רבותינו, וההוכחה ששתי המצוות הללו אינן חובה עלינו בזמן הזה היא מה שאמרו: "דיני נפשות בעשרים ושלשה הרבע והנרבע בעשרים ושלשה שנ' והרגת את האשה ואת הב' ואומ' ואת הבהמה תהרגו שור הנסקל 15

בעשרים ושלשה שנ' השור יסקל וגם בעליו יומת כמיתת הבעלים כן מיתת השור. והיכלת לדין כל הדברים הללו נפסקה מבני אדם בארבעים השנים האחרונות שהבית השני היה קים, כמו שאמרו: "ארבעים שנה קודם חרבן הבית נלחח לה סנדרים וישבה בחנות למאי הילכתא אמ' ר' יצחק בר אבדימי שלא דנו דיני נפשות. ועוד אמרו: "ר' שילא ננדיה לההוא גברא דבעל גויה אזל אכל ביה קירצה בי מלכא איכא 20 גברא חד ביהודאי דקא דאין כי לא נקוט הרמנא ממלכא איתיה ל' שילא אמרי ליה אמאי צערתי להאיי גברא דבעל חמאר אי הכי בר קטלא הוא אמ' להו מיכי חרוב בית המקדש לית לן רשותא למידן דיני נפשות." המצוה השלישית ממנו.

אם עדת ישראל חטאו בשגגה ונעלם דבר מעיני הקהל ועשו אחד 25

5 b

הדברים האסורים ואשמו בדבר אשר עשו, חייב הקהל להביא אל אהל מועד פר לחטאת, וסמכו זקני העדה את ידיהם על ראשו. אחר כך ישחט, והכהן המשיח יזה מדמו אל פני הפרכת שבע פעמים, ונתן ממנו על קרנות מזבח הקטרת, והנותר יישפך אל יסוד מזבח העולה, והקטיר על המזבח 5 חלבו וכליותיו והיותרת על כבדו, וכפר להם ונסלח להם, והוציא את כל הפר אל מחוץ למחנה אל מקום טהור אל שפך הדשן, וישרף שם, כמו שכתוב: "ואם כל עדת ישראל יש' ונע' וג' ונודעה החטאת וג' וסמכו זקני הע' וג' והביא הכהן וג' וטבל הכהן וג' ומן הדם וג' ואת כל חלבו וג' יעשה לפר וג' והוציא את הפר וג'." דבריו "עדת ישראל" ו"עני העדה" ו"זקני העדה" יכללו הכתה העליונה של השופטים, כמו 10 שאמרו: "עדת ישראל העדה המיוחדת בישראל ואיזו זו סנדרין גדולה היושבת בלשכת

הגזית." ועוד: "פר שנא בן קהל ונאמר להלן קהל מה קהל האמור להלן בית דין אף בן בית דין." וענין "ונעלם דבר" חלק מן המצוה ולא מצוה כלה, כמו שאמרו: "ונעלם דבר ולא שתתעלם מצוה כלה." ואמרו: "הורו בית דין לעקר את הנוף אמרו אין נדה בתורה אין שבת בתורה אין עבדה זרה בתורה הרי אילו פטורין הורו לקיים מקצתן ולבטל מקצתן הרי אילו חייבין כאינצד אמרו יש נדה בתורה אבל הבא על שומרת יום כנגד יום פטור יש שבת בתורה אבל המוציא מרשות היחיד לרשות הרבים פטור יש עבדה זרה בתורה אבל המשתחוה פטור הרי אילו חייבין שנ' ונעלם דבר דבר ולא כל הנוף." "הורו לבטל מקצת ולקיים מקצת הרי אילו חייבין כאינצד יש רם בתורה אבל אין חייבין אילא על הדם הקרב לשמים יש חלב בתורה אבל אין חייבין אילא על חלב הקרב לשמים יש פגול בתורה אבל אין חייבין אילא על פגול שבשלמים הרי אילו חייבין." ואמר "מכל מצות יי" להבדילן ממה שאינו מצות יי, כמו שאמרו: "מצות יי ולא מצות המלך ולא מצות בית דין." ודבריו "אשר לא תעשינה" ענינם דברים שאם נעשו בודוין, לא בטננה, היה העושה אותם חייב להכרת מאת יי (רצוני לומר כרת), כמו שאמרו: "אין חייבין אילא על דבר שזדונו כרת ועל שגגות חטאת." וזה הוא כנון העושה מלאכה ביום

6 a

הנפורים והאכל חמין בפסח וערל שלא מל וכיוצא בהם, והסמיכה צריכה להיות בקרבן הזה וגם בקרבן שעירי עבדה זרה, אבל לא בקרבנות צבור אחרים, כמו שאמרו: "וכל קרבנות ציבור אין בהן סמיכה חוץ מפר הבא על כל המצות ושעירי עבדה זרה." ועוד: "אלו ראבינא גמירי שתי סמיכות בצבור." וצריכה להיות בשתי ידי הסומך, כמו שאמרו: "סמיכה ידו על הראש ובשתי ידיו." 5 ושלשה מראשי העדה צריכים לעשות זאת, כמו שאמרו: "עדה המיוחדים שבעדה, וסמכו זקני הרי שנים ואין בית שקול הרי שלשה." ופני הזובח צריכים להיות מועדות בשעת השחיטה כלפי מזרח, כמו שאמרו: "בהן גדול היה עומד במזרח ופניו כלפי מערב." והפר יטחט כלפי המזבח הצפוני, כמו שאמרו: "לפי יי בצפון." 10 וכונת מחוץ למחנה — מחוץ לכל מחנותיהם, כמו שאמרו: "חיון לשלש מחנות."

המצוה הרביעית ממנו.

אם נשיא יחטא ועשה בשגגה אחד הדברים האסורים ואשם, ואחר כך הודע אליו חטאתו, חייב להביא את קרבנו שעיר עזים תמים, וסמך ידיו על ראשו, ושחטו במקום אשר ישחט את העולה, ולקח הכהן מודמו באצבעו ונתנו על קרנות מזבח העולה, והנותר ממנו ישפך אל יסודו, והקטיר את כל חלבו בחלב זבח השלמים, וכפר עליו הכהן מחטאתו ונסלח לו, כמו שכתוב: "אשר נשיא יחט וז' או הודע אליו וז' וסמך ידיו וז' ולקח הכהן וז' ואת כל חלבו וז'". וכונת המלה נשיא היא מלך, כמו שאמרו: "איזה הוא נשיא זה המלך שז' ועשה אחת מכל מצות יי' אלהיו, ולהלן הוא אומ' למען ילמד ליראה את יי' אלהיו מה אלהיו האמור להלן נשיא שאין על גביו אילא יי' אלהיו אף אלהיו האמור בן נשיא שאין על גביו אילא יי' אלהיו". וכונת או הודע אליו חטאתו — שידע הוא בעצמו בחטאתו, כמו שאמרו: "הודע אליו ולא שידעוהו אחרים מנין אפילו אמרו לו שנים תלמ' לזמ' הודע אליו ולא אשם יאמרו לו אחרים, והקרבן הזה חובה עליו בהיותו מלך, ולא קודם לכן, כמו שאמרו: "נשיא יחטא כשיחטא והוא נשיא ולא כשיחטא והוא הדיוט". ואם היה חייב להביא קרבן

6 b

כזה בהיותו מלך, ואחר כך הורידוהו ממלכותו קודם שהקריבהו, צריך להביאו אחר כך, כמו שאמרו: "כהן משיח שחטא ואחר כך עבר ממשיחותו וכן הנשיא שחטא ואחר כך עבר מגדולתו משיח מביא פר ונשיא מביא שעיר". אבל אם חטא את החטא הנזכר למעלה אחר שפסקה מלכותו, חייב להביא קרבן כהדיוט, כמו שאמרו: "כהן משיח שעבר ממשיחותו ואחר כך חטא וכן הנשיא שעבר מגדולתו ואחר כך חטא כהן משיח מביא פר והנשיא כהדיוט".

המצוה החמשית ממנו.

אם אחד מעם הארץ יחטא בשגגה ועשה אחד הדברים האסורים, ואחר כך הודע אליו חטאתו, חייב להביא את קרבנו נקבה מן העזים או מן הכבשים לחטאת, וסמך ידיו על ראשה, אחר כך תשחט במקום העולה, ונתן הכהן מדמה באצבעו על קרנות מזבח העולה, והנותר ישפך אל יסודו, ויוסר חלבה כאשם הוסר

חלב קרבן השלמים, והקטיר עליו, וכפר עליו הכהן ונסלח לו, כמו שכתוב: "ואם נפש אחת תחטא בשגגה מעם הארץ וז' או הודע אליו חטאתו וז' וסמך את ידו וז' ולקח הכהן מדרמה וז' ואת כל חלבה וז' ואם כבש וז' וסמך את ידו וז' ולקח הכהן מדם החט' וז' ואת כל חלבו וז'", הקרבן הזה חובה נם על תלמיד חכם שעשה בהוראת עצמו, לא בהוראת בית דין; אבל העושה בהוראת בית דין, אין הברל אם היה תלמיד חכם או לא, חובת הקרבן מסתלקת ממנו, כמו שאמרו: "תולה בעצמו חייב תולה בבית דין פטור כאיוצד הורו בית דין וידע אחד מהם שטעו או תלמיד ראוי להוראה כשמעון בן עזי וכשמעון בן זומא והלך היחיד ועשה על פיהם יכול יהא חייב תלמו לומ' בעשותה תולה בעצמו חייב תולה בבית דין פטור." ועוד: "הורו בית דין לעבור על אחת מכל מצות האמורות בתורה והלך היחיד ועשה שוגג על פיהם בין שעשו ועשה עמהם ובין שעשו ועשו אחריהם ובין שלא עשו ועשה

7 a

הרי זה פטור מפני שתלה בבית דין." ובדבריו מעם הארץ יחד את המלך והכהן ולא כללם ב"נפש" שנאמר בה "ואם נפש אחת תחטא", והוציאם מן הדין הזה, כמו שאמרו: "מעם הארץ פרט לנשיא", בדבריו "בעשותה אחת" רוצה לומר כל המעשה כלו שחייבים עליה קרבן, לא מקצתו. ואם עזרו אנשים רבים איש לרעהו ועשו בשגגה את כל המעשה שהעושה אותו חייב קרבן, אין כל אחד מהם, ולא כלם יחד, חייבים להביא קרבן, כמו שאמרו: "תניא המוציא כבר לרשות הרבים חייב הוציאווהו שנים ו' מאיר מחייב ו' יהודה אומ' אם לא יכול אחד להוציאו והוציאווהו שנים חייבין ואם לאו פטורין ו' שמעון אומ' אף על פי שלא יכול אחד להוציאו והוציאווהו שנים פטורין מנא הני מילי דתנו רבנן בעשתה אחת בעשה כלה ולא בעשה מקצתה הא כאיוצד שנים

איוצין במלמו ולווצין בכרכר ושובטין בקולמוס וכותבין בקנה והוציאווהו לרשות הרבים יכול יהו חייבין תלמו לומ' בעשתה בענול של דבלה והוציאווהו לרשות הרבים בקורה והוציאווהו לרשות הרבים ו' יהודה אומ' אם לא יכול אחד להוציאו והוציאווהו שנים חייבין ואם לאו פטורין ו' שמעון אומ' אף על פי שלא יכול אחד להוציאו והוציאווהו שנים פטורין לכך נאמר

בעשתה יחיד שעשה חייב שנים שעשו פטורין. ודבריו במצוה הזאת "מצות יי" וגם "או הודע אליו" שוים בחובתם לדבריו "מצות יי" וגם "או הודע אליו" שנאמרו בבאור שתי המצות הקודמות למצוה החמישית הזאת.

המצוה הששית ממנו. מי שחטא ועשה דבר אשר לא

20 יעשה ולא ידע שאשם חייב להביא איל תמים מן הצאן לקרבן אשם אל הכהן. וכפר עליו על שגנתו ונסלח לו, כמו שכתוב: "ואם נפש כי תחטא ועשׂה וג' והביא איל תמים מן אשם הוא וג'." בקבלה נכלל שהחטא הזה והשגנה קרו לאיש שהיו לפניו שני מיני מאכל, אחד מהם אסור והשני מותר, ואכל מאחד מהם ולא ידע מאיזה מהם

7 b

אכל; או שהיו אשתו ואחותו אצלו, ובא על אחת מהן ולא ידע על איזו מהן בא; או עשה מלאכה ולא ידע אם עשה אותה בזמן התר או בזמן אסור, כמו שאמרו: "חלב ושמן לפניו אכל את אחד מהן ואין ידוע איזה מהן אכל אשתו ואחותו עמו בבית שגג באחת מהן ואין ידוע באיזה מהן שגג שבת ויום טוב עשה מלאכה באחת מהן ואין ידוע באיזה מהן עשה מביא אשם תלוי." ואם 5 אכל בשגנה דבר שהאוכל אותו בודון חייב כרת צריך להביא, כשהברר לו מעשהו, קרבן חטאת ועל ספקו קרבן אשם תלוי, כמו שאמרו: "דבר שהייבין על זרוננו כרת ועל שגנתו חטאת ספקו אשם תלוי. ר' עקיבא אומר האוכל חלב מביא חטאת בסלע ספק אכל ספק לא אכל מביא אשם תלוי בשני סלעים. חתיכה של חלב 10 וחתיכה של בשר נותר אכל את אחת מהן ואינו ידוע איזו מהן אכל מביא חטאת ואשם תלוי." ואם אחרי שהביא את הקרבן הברר לו שחטא או שנודע לו שלא חטא צריכים לאחר את שחיטת הבהמה שהוכנה לקרבן כדי שיפול בה מום בעת שתרעה, ותמכר בשביל זה ויקנו בדמיה בהמה אחרת להקריבה קרבן נדבה, כמו שאמרו: "המביא אשם תלוי ואחר כך נודע לו שחטא או נודע לו 15 שלא חטא מה יעשה יצא וירעה בערר דבריו ר' מאיר וחכמי אומ' ירעה עד שיסתאב וימכר ויפלו דמיו לנדבה." **המצוה השביעית ממנו.** אם ערה תשנה בעברה זרה חייבים להביא אל הכהן

פר לעולה ומנחתו ונסכו במשפט, ושעיר עזים לחטאת.
 וכפר להם ונסלח להם, כמו שכתוב: "וכי תשנו ולא תעשו וזאת את כל אשר צוה יי וזו והיה
 20 אם מעיני העד וגו' וכפר הכהן וגו' ונסלח לכל עדת וגו'." כבר הזכרנו בבאור
 "ואם כל עדת יש וגו'" שהכתוב מדבר בסנהדרין, וגם המצוה הזאת מדברת
 בהם, כמו שאמרו: "נאמר בן עדה ונאמר להלן עדה מה עדה האמורה להלן כלם
 ראויין להוראה אף עדה האמורה בן עד שיהיו כלם ראויין להוראה." והשגנה
 הזאת בעברה זרה היא. ההוכחה על זה היא דבריהם: "אתה אומ' בעברה זרה הכתוב

8 a

מדבר או אינו אילא באחת מכל המצות שבתורה תלמ' לזמ' והיה אם
 מעיני העדה נע' וגו' ייחד הכתוב מצוה זו ואמרה בפני עצמה ואיוו זו
 עברה זרה" **המצוה השמינית ממנו.** אם נפש תחטא
 בשגנה בעברה זרה חיבת להקריב עז בת שנתה לחטאת.
 5 וכפר עליה הכהן ונסלח לה, כמו שכתוב: "ואם נפש אחת תחטא בשגנה וגו'
 וכפר הכהן על הנפש הש'." וההוכחה שהמשנה הזו של השוגג היה
 בעברה זרה היא דבריהם: "ואם נפש אחת תחטא בש' עברה זרה היתה בכלל כל
 המצות שהיחיד מביא עליה כשבה או שעירה נשיא שעיר משיח ובית
 דין מביאין פר הרי הכתוב מוציאה מכללה להחמיר עליה ולדון בקבעה
 10 שיהיו היחיד נשיא ומשיח מביאין עליה עז בת שנתה לחטאת לכך נאמרה
 פרישה זו." **המצוה התשיעית.**

אם איש נגב ואין ידו משנת להשיב את הנגבה והכפל או שוים
 לבעליה, מַצוּה הוא להמכר כדי שישלם לנגב, כמו שכתוב: "שלם ישלם ואם אין
 לו וגו'." כבר בארנו את המצוה הזאת באור מספיק בתוך באורנו "כי תקנה
 15 עבד עב' בראשית הספר השני, ואין לנו צורך להזכיר דבר כאן. נשלמו באורי תשע
 המצות שהנן מצות עשה מן אחת עשרה המצות שנזכרו למעלה בחלק הזה. החלק
 השני ממנו הכולל שתי מצות לא תעשה. הראשונה והשניה ממנו. מי שנצטוו
 להביא עשירית האפה, שנזכרה בפרשת "ונפש כי תחטא ושמ' וגו'."

נאסר לצקת עליה שמן ולשים עליה לבונה, כמו שכתוב: "לא ישים עליה שמן ולא יתן עליה לבנה." בקבלה נכלל שאף על פי שאסור לו לכהן לצקת על הקרבן הזה שמן ולבונה קודם שהקריבהו, מותר לו לשים שמן עליו אחרי שהקריב ממנו מה שצריך להקריבו. ואם שם עליו לבונה קודם שהקריבהו, מותר לו להקריב את הצריך הקרבה, אחרי שלקט את הלבונה, כמו שאמרו: "יכול אם נתן לבונה פסל תל לומר כי חטאת ה' מפני מבשיר לבונה מפני שהוא

8 b

יכול ללקטה ופוסל בשמן שאין יכול ללקטו." ואמרו בשמן גם כן: "עליה אין נותן נותן הוא על שיריה." נשלם באורנו של החלק הרביעי הכולל אחת עשרה מצות שנוכרו למעלה.

הספר הרביעי מן המצות שחבר ראש כלה חפין בן יצליח בדבר הקרבנות

5 הקרבים לנדבה, ובדבר האסור שחל על מי שאינו מורע אהרן להקריב קרבנות על המזבח,

ובדבר נדרי כסף וערכי הנפשות, וכיוצא בזה; כולל שלשים ושש מצות הנחלקות לשלושה חלקים.

הראשון מהם כולל שמנה עשרה מצות בדבר הקרבנות המובאים מן הבהמות ואין חובה לעשותן בזמן הזה; והן נחלקות לשני חלקים: הראשון מהם כולל עשר מצות עשה, והשני כולל שמנה מצות לא תעשה. החלק השני כולל שבע מצות בדבר הקרבנות המובאים מן הדגן וכיוצא בזה, ואין חובה לעשותן בזמן הזה; והן נחלקות לשני חלקים: הראשון מהם כולל חמש מצות עשה והשני כולל שתי מצות לא תעשה.

החלק השלישי כולל אחת עשרה מצות בדבר הנכסים, וערכי הנפשות, וכיוצא בזה, והן נחלקות לשני חלקים: הראשון מהם כולל שמנה מצות, חמש מהן מצות עשה ושלוש מצות לא תעשה, שאין חובה לעשותן בזמן הזה; והשני כולל שלש מצות עשה שחובה לעשותן בכל זמן ומקום. וכלן שלשים ושש מצות. באור החלק הראשון.

המצוה הראשונה מן עשר המצות שהנן מצות עשה.

המתנדב להקריב עולה מן הבקר מצוה להביא זכר תמים שאין בו מום

אל אהל מועד. אחר כך יסמך ידיו על ראשו לכפר עליו. אחר־כן ישחט ודמו יורק סביב על המזבח אשר אצל פתח אהל מועד. אחר כך יפשט וינתח לנתחיו, וישרף באש על המזבח אחרי שרחצו את קרבנו וברעיו במים, כמו שכתוב: "אם עלה קרבנו מן הבק וז' וסמך את יד וז' והפשיט וז' ונתנו וז' וערכו וז' וקרבנו וברעיו וז'." דבריו "אל פתח וז'" מכונים שצריך להיות שם בעת שמקריבים את קרבנו בין שרצה ובין שמאן, כמו שאמרו: "יקריב אותו מלמד שבפין אותו יכול על כרחו תלמ לומ לרצונו

9 a

הא כאינצד כופין אותו עד שיאמר רוצה אני." וענין דבריו "וסמך ידו על ראש הפ' וז'" במקום המיוחד, לא זולתו, כמו שאמרו: "במקום שסומכין שוחטין." ובגט דבריו "ונרצה לו" כפרה על עברת מצות עשה שלא הזכיר לנו הכתוב ענין העובר עליה, כגון "ועשית מעקה," "ועשו להם ציצית," וכיוצא בהן; וכפרה על עברת מצות לא תעשה שאפשר לתקנה, ותקנה, כגון "לא תקח האם על הבנים וז' שלח תשלח וז'," "ולא תותירו ממ' עד ב'," וכיוצא בהן, כמו שאמרו בזה: "מלמד שהמקום נרצה לו על מה המקום נרצה לו אם תאמר על דברים שחיבין עליהן מיתת בית דין מיתה בידי שמים כרת בידי שמים מלקות ארבעים חטאות ואשמות הרי ענין אמור על מה המקום מרצה על מצות עשה ועל מצות לא תעשה שיש בהם קום עשה." והכפרה תשלם אחרי שהתורה והסיד ידיו, כמו שאמרו בזה וגם בדבר הסמיכה: "כאינצד סומך זבח עומד בצפון ופניו במערב וסומך במערב ופניו במערב ומניח שתי ידיו בין שתי קרניו של זבח

ולא היה מניח ידיו על גבי החזה ולא היה מניח ידיו זו על זו ולא היה דבר חוצין בין ידים לקרנות ומתורה עליו עון עבירה על חטאת עון חטאת על אשם עון אשמה על עולה עון לקט ושכחה ופואה שאין להם ודוי דברי ר' יוסי הגלילי אומ' לו ר' עקיבה על מה עולה מכפרת דברים שיש בהן ענין אמור לא תעשה שלהן אמורה על מה עולה מכפרת על מצות עשה ועל מצות לא תעשה שיש בהן קום עשה." ומלת "ושחט" סתומה: התיר לכהן וגם לזר לשחט, כמו שאמרו: "שחיטה בכל כשרה בנשים ובזרים ובעבדים

20 ובטמאים ואפילו בקדשי קדשים ובלבד שלא יהיו הטמאים נוגעין בבשר. אבל דבריו "והקריבו בני אהרן הכהנים א' ה'" כונתם שהעבודה הזאת מיחדת לכהנים, לא לזרים, כמו שאמרו: "מקבלה ואילך מצות כהנה, אבל שחיטה כשרה בכל אדם." וכונת המלה "סביב" שיהיה את הדם על קרן המזבח אשר במערב ודרום, וגם על הקרן אשר בצפון ומזרח, כמו שאמרו: "שתי מתנות שהן ארבע." ועוד:

9 b

"יכול יקיפנו כחוט תלם לזמן וזרקו הא' כאיזוד הפסיק ארבע מתנות סביב." ודבריו "ונתח אותו לנתחיו" ענינם אברים מיחדים, והם הראש והידים והדפנים והצואר והרגלים והחזה והגב והקרב והירכים, כמו שאמרו: "חותך את הראש ונותנו למי שזכה בו חותך את הכרעים וז' חותך את הידים עלה לרגל הימנית 5 חותכה וז' נטל את הקרבים וז' נטל את החזה וז' עלה לרופן הימנית וז' בא לו לגרה וז' בא לו לרופן השמאלית וז' בא לו לעוקץ וז' נטל רגל השמאלית וז'." וערכו על האש—כל עצים שיהיו, חוץ מעצי זית וגפן, כמו שאמרו: "כל העצים כשרים חוץ מושל זית ושל גפן אבל באלו רגילים במרכות של תאנה ושל אגוז ושל עץ שמן." **המצוה השנייה ממנו.** המתנדב להקריב עולה מן הצאן 10 מצוה להביא זכר תמים אשר אין בו מום. אחר כך ישחט על ירך המזבח צפונה לפני י'. וזרקו בני אהרן הכהנים את דמו על המזבח סביב. אחר כך ינתח לנתחיו וישרף אחרי שרחצו את קרבו וברעיו, כמו שכתוב: "ואם מן הצאן קר' וז' ישחט וז' ונתח אותו וז' והקרב והכרעים וז'." וענין "ונתח" אברים מיחדים, כמו שאמרנו למעלה בבאורנו במצוה שלפני המצוה הזאת. אחר כך יעלו אותם כמו 15 שהם על המזבח, כמו שאמרו: "לנתחיו אין נתחים לנתחיהם." **המצוה השלישית ממנו.** המתנדב להקריב עולה מן העוף מצוה להביא מן התורים או בני היונה. והכהן יקריב אותו על המזבח. אחר כך ימלק את ראשו ויקטירו על המזבח וימצה דמו על קיר המזבח אחרי שהסיר המראה והנוצה. וישליך אותו אצל המזבח קדמה אל מקום הדשן. 20 אחר כך ישסע כנפיו ולא יברילן, ויקטירו על המזבח, כמו שכתוב: "ואם מן העוף על ק' וז' והקריבו הכהן וז' והסיר את לו' וז' ושסע אותו בכ' וז'." למדנו מדבריו "והקריב מן התורים או מן בני היונה א' ק'" שהגדולות שבתורים ראויות לקרבן משיגמר

מראיהן להצחיב; אבל בני היונה כאשר יתחיל מראיהם להצחיב לא יכשרו לקרבן, כמו שאמרו: "מן התורים ולא כל התורים מן בני היונה ולא כל בני היונה פרט

10 a

לתחלת הצחיב שבזה ושבוה אימתי תורין כשרין משיצחיבו אימתי בני יונה פסולין כשיצחיבו." וכונת "ומלך את ראשו" שיתחך את נירי הנרנת והערף, וגם הקנה והושט, כל זה בצפרנו, וצריך להבדיל את הראש מן הנף, כמו שאמרו: "מולך בצפרן ואינו מבדילו כשם ששחיטתה אחד או רוב אחד כך מליקתה אחד או רוב אחד וכשם שמולך בחטאת העוף כך הוא מולך בעולת העוף אילא שבעולת העוף היה מבדיל." ולקשי המלאכה הזאת אמרו: "זו מעבודות קשות שבמקדש." והתוספתא אומרת: "כאיוצד מולקין חטאת העוף נותן שני נפיה בין שני אצבעותיו שתי רגליה בין שתי אצבעותיו והיה מותח צוארה על גבי אצבעותיו והיה מולך בצפורן מכול ערפה ואינו מבדיל והזה מדמה על קיר המזבח וכשם ששחיטתה אחד או רוב אחד כך מליקתה אחד או רוב אחד." **המצוה הרביעית ממנו.** מצינים אנו להביא עולותינו וזבחינו ומעשרותינו ותרומותינו ונדרינו ונדבותינו ובכורות בקרנו וצאננו אל המקום המיוחד, כמו שכתוב: "לשכנו תדרשו ובאת שמה והבאתם שמה ע' וז." במלה "מעשרותיכם" יתכון למעשר בהמה ודגן, כמו שאמרו: "בשני מעשרות הכתוב מדבר אחד מעשר בהמה ואחד מעשר דגן." **המצוה החמישית ממנו.** בעל קרבן השלמים מצוה להביא בידיו את החלב ואת החזה להניף אותם לפני יי. אחר כך יקטר החלב על המזבח, כמו שכתוב: "ידיו תביאנה את אש זב והקטיר הכהן זב." ובקבלה נכלל שכהן היה מניח ידו תחת יד בעל הקרבן בשעת התנופה, כמו שאמרו: "כהן מניח ידו תחת יד הבעלים." והתנופה צריכה להיות כלפי צדים שונים, בשביל הטעמים שהזכירו חכמינו, כמו שאמרו: "מוליך מביא מעלה מוריד." ואמרו: "אמ' ר' חיה בר אבא אמ' ר' יוחנן מוליך ומביא למי שהרחוחת שלו מעלה ומוריד למי שהשמים והארץ שלו במערבא מתני הכי אמ' ר' חמא בר עוקבא אמ' ר' יוסי בר חנינה מוליך ומביא כדי לעצור רוחות

רעות מעלה ומוריד כדי לעצור טללים רעים.”

המצוה הששית ממנו. מצוים אנו לקחת מן הצאן ומן הכבשים הקרבים שלמים את חלבם, ואת החלב המכסה את הקרב, ויתר החלב אשר על הקרב, והכליות והחלב אשר עליהן ועל הכסלים והיותרת על הכבד, ולהקטיר אותם על המזבח, כמו שכתוב: “והקריב מזבח השלם וגו’ ואת שתי הכליות וגו’ והקטירו הכהן המז וגו’.” אם שוחט קרבן שלמים חשב שאינו שלמים אלא בכור ומעשר, פוסלת מחשבתו זו את הקרבן; ואם חשב, בעת שחטו בכור ומעשר, שהנו שלמים, אין מחשבתו פוסלת את הקרבן, כמו שאמרו: “הבכור והמעשר ששחטן לשום שלמים בשרין ושלמים ששחטן לשום וכו’.” ואם בעל הקרבן שנה ולא סמך ידיו עליו אינו פסול, כמו שאמרו: “השלמים אף על פי שלא סמך עליהן.”

המצוה השביעית ממנו. מצוים אנו להקריב עם הכבשים והאילים

והפרים, שהנם עולות ונדרים ונדבות, וכיוצא בהם, סלת ויין ושמן; לכל כבש עשרון, שהנו חֶשֶׁב דרכמונים, ויין רביעית ההין, שהנו שֵׁ דרכמונים, ושמן כמו יין; ולאיל שני עשרונים סלת ושלישית ההין יין ושמן כמו יין; ולפר שלשה עשרונים סלת וחצי ההין יין ושמן כמו יין, כמו שכתוב: “ועשיתם אשה ליי עלה או זבח וגו’ והקריב המקריב קֶרֶב וגו’ ויין לנסך רביעית הֶזֶה וגו’ או לאיל תעשה מֶזֶג וגו’ ויין לנסך שלֹ וְזֶה וְכִי תַעֲשֶׂה בֶן בֶּקֶעֶז וגו’ והקריב על בֶּן הבֶּקֶעֶז וגו’ ויין תקריב לנסך חצי ההין וגו’.” והנסכים אינם חובה לכל מה שהזכרנו אלא לקצתם, ואמרו רבותינו: “שומע אני כל הקרב לאשים יטען נסכים תלמֶ לזֶמֶ עולה אין לי אילא עולה מנין לרבות את השלמים תלמֶ לזֶמֶ זבח משמע מביא את אילו ומביא את חטאת ואשם תלמֶ לזֶמֶ לפלא נדר או בנדבה לא אמרתי אלא קרשים הבאים בנדר ובנדבה משמע מוציא את אילו ומביא את עולת חובה הבאה ברגלים כשהוא אֹמֵר או במועדיכם להביא את עולת חובה הבאה ברגלים משמע מביא את עולת חובה הבאה ברגלים ומביא את חטאת חובה הבאה ברגלים ומביא את עולת חובה הבאה ברגלים וכו’ תעשה בֶן בֶּקֶר עלה או זבח בֶן בֶּקֶר היה בכלל יצא

II a

מוצא מן הכלל ולימור על הכלל מה בן הבקר שהוא בא בנדר ובנדבה וטעון נסכים כך כל הבא בנדר ונדבה טעון נסכים יצאו חטאת ואישם שאינם באים בנדר ונדבה שלא יטענו נסכים.”

המצוה השמינית ממנו.

אם הבקר והצאן שהתנרב היו בעלי ברכים שמוטות, או שהיו קלוטים,

5 מצוה הוא להקריבם לנדבה, לא לנדר, כמו שכתוב: “ושור ושה שרוע וז.” וכונת המלה “שרוע” מי שברכו שמוטה, וינדר את אחת מרגליו בשביל זה. וקלוט הוא מי שנתכוצו שריריו ונבהה בשביל זה אחת מרגליו, כמו שאמרו: “השחול והכסול איזהו שחול שגשמטה ירכו כסול שאחת מירכותיו גבוהה.” או רגלו כרגל הסוס או החמור, כמו שאמרו: “שרוע שגשמטה ירכו וקלוט פרסות רגליו

10 דומות לסוס פרסות רגליו דומות לחמור.” והתלמוד אומ’ בבארו זה: “קלוטות אצל רב פפא לא תימ’ דענילן ולא סדיקן אילא כיון דענילן אף על גב דסדיקן.” וכונת דבריו “נדבה תעשה א” שימכרנה ויוציא דמיה לבדק הבית, כמו שאמרו: “נדבה תעשה אתו אתו עשה נדבה לבדק הבית ואין אתה עושה תמימים לבדק הבית מיכן אמרו המקדיש תמימים לבדק הבית עובר בעשה.”

15 **המצוה התשיעית ממנו.** אם היה הקרבן נדבה או נדר מִצָּנָה הוא לאכל אותו ביום הקרבו ולמחרתו, כמו שכתוב: “ואם נדר או נדבה וז.” כיון שאמר “ביום הקריבו את זבחו יאכל ומז” ולא אמר “עד בקר,” כמו שאמר בקרבן תודה, מותר לאכל אותו במשך היום הראשון לשחיטתו ובליל מחרת, ובבקר שאחר כך, ולא בלילה שאחר הבקר ההוא, כמו

20 שאמרו: “יכול יאכל לאור שלישי ודין הוא זבחים נאכל ליום אחד זבחים נאכל לשני ימים מה זבחים הנאכלין ליום אחד לילה אחריו אף זבחים הנאכלין לשני ימים יהא לילו אחריו תלם לזמן עד יום עד יום הוא נאכל אינו נאכל לאור שלישי.”

המצוה העשירית ממנו. המקריב קרבן תודה

לוי מצוה להוסיף עליו חלות מצות בלולות בשמן ורקיקי מצות מִשֻׁחוֹת בשמן וחלות מרבכות מסלת בלולות בשמן וחלות

11 b

לחם חמין, כמו שכתוב: "אם על תודה יקר וז' על חלות לחם חמין יק' וז'." משקל לחם החמין עשרה עשרונים ויתר המינים, שהנם חלות מצות וריקין מצות וז' וסלת מרבבת וז', עשרה עשרונים, כמו שאמרו: "על חלות לחם חמין כנגד חמין הביא מצה מה חמין עשרה עשרונות אף מצות עשרה עשרונות." והחלות והריקים — עשרה עשרה מכל אחד מהם.

וכלם כאחד ארבעים. והראיה לזה מה שנאמר: "והקריב ממנו אחד מכל קרבן וז'"; משום שקרא לדבר הנזכר תרומה, הברר שהנו חלק אחד מעשרה. והנשאר יאכלוהו בעליו, כמו שאמרו: "תרומה לוי איני יודע כמה הריני דין נאמר כן תרומה לוי ונא תרומה בתרומות המעשר מה תרומת המעשר אחד מעשרה אף זו אחד

מעשרה." ואמרו: "לא יהו כלם אילא קרבן אחד תלמי לומ' והקריב על זבח התודה ואומ' והקריב ממנו אחד מכל קרבן תרומה לוי נמצא לחמה

של תודה ארבעים חלות נוטל מהן ארבע ונותן לכהן שנא לכהן הזורק את דם השלמים לו יהיה והשאר נאכל לבעלים." ומדת השמן חצי לוג

שהנו חמישים דרבמונים, כמו שאמרו: "חצי לג שמן לתודה ורביעית יין לנויר ויא

יום שבין נדה לנדה הלכה למשה מסיני." נשלם באורנו של עשר המצות שנוכרו למעלה. **שמנה המצות שהנן מצות לא תעשה.**

המצוה הראשונה ממנו. אסור לזוּבַח קרבן תודה

לוי יתברך להותיר מן הבשר עד מחרת הבקר של מחרת יום שחיטתו,

אבל יאכלנו ביום הקריבו אותו ובלייל מחרתו, כמו שכתוב: "ובשר זבח תודת שלמיו

וז'." וכונת פשוטו של "לא יניח ממנו עד בקר" — המשמרת האחרונה של הלילה; אבל בקבלה

נכלל שאסור לו להפליג באכילתו אחר חצות, כמו שאמרו: "אוכל הוא

כל הלילה אם כן למה אמרו חכמי עד חצות כדי להרחיק את האדם מן

העבירה." **המצוה השנייה ממנו.** אסור לנרב

לקרבן בהמה שהנה עורת או שבורה או חרוצה או בעלת יבלת או

12 a

גרב או ילפת, כמו שכתוב: "עורת או שבור או חרוץ או יבלת או גרב או ילפת לא

תק' א' לוי." במלה "עורת" נכללו סומאה בשתי עיניה וסומאה באחת מעיניה, כמו

שאמרו: "בין

הסומא בשתי עיניו ובין הסומא באחת מעיניו. וב"שבור" נכללו שבר יד ורגל וזנב, כמו שאמרו: "שבור מה תלם לזמ לזמ לפי שנאמר שבר יד או שבר רגל אין לי אילא שנשברה ידו או רגלו מנין לרבות שבר הזנב תלם לזמ או שבר." וכונת "חרין" רים עין שנקב שנפגם ונסדק, כמו שאמרו: "חרין של עין שנקב או שנפגם אי שנסדק." וענין "יבלת" מי שיש לו שתי יבלות כאלו שבצואר גדי, כמו שאמרו: "זה בעל היבלת." וענין "גרב" גרב לת, כמו שאמרו: "גרב זה החרס." ו"ילפת" זו חזוית, ונראה שהוא גרב יבש, כמו שאמרו: "ילפת זו חזוית 10 המצרית." ודק ותבלול הם מקצת מומי האדם, ואם נמצאו בבהמות הכשרות לקרבן פוסלים הם אותן, כמו שאמרו: "הא יבלת דלא כתיבא באדם דק ותבלול דלא כתיבא בבהמה מילף ילפי מהדרי דתניא באדם לא נאמר יבלת בבהמה לא נאמר דק ותבלול מנין ליתן את האמור בזה ואת האמור בזה לזה תלם לזמ גרב גרב ילפת ילפת לגורה שוה." ונברר כל מה שבארנו למעלה 15 במצוה הזאת ועוד ענינים אחרים במקומם, בספר השלשים וישיה של המצות.

המצוה השלישית והרביעית ממנו. אסור להקריב בהמה מעוכה וכתותה ונתוקה וברותה, ולעשות דבר כזה בארצנו, כמו שכתוב: "ומעוך וכתות וז' וז'." ענין "מעוך" בהמה שנתמעכה ונחלשה ביצתה ויצא הלבן ממנה. וכונת "כתות" מי שהורדקו ביציו או ששמו עליהן סם ונמעכו ונחלשו. ו"נתוק" — שנכרת גידו משרשו, ו"ברות" — שנכרת מקצת גידו ממנו, 20 כמו שאמרו: "ומעוך וכתות ונתוק וברות כלן בביצים דברי ר' יהודה ר' יוסי אומ' מעוך וכתות בביצים ונתוק וברות בנדר." ונשלים את באור הענין הזה והדומה לו בספר העשירי, ואסור לעשות כדבר הזה לאדם ולבעלי חיים אחרים, כמו שאמרו: "אין לי אילא בהמה חיה ועוף מנין תלם לזמ בארצכם." והתוספתא אומרת: "המסרס"

12 b

את האדם ואת הבהמה ואת החיה ואת העופות בין גדולים ובין קטנים בין זכרים ובין נקבות הרי זה חייב ר' יהודה אומ' המסרס את הוכרים חייב את הנקבות פטור. ובמלה "ובארצכם" נכללת גם ארץ סוריא וכיוצא בה; ודמחתו "שפטים ושטרים תתן לך בכל שעריך וז'." "לא תעשק שכיר עני ואביון ז' וז'."

- 5 והדומה להם, כמו שאמרו: "אין לי אילא בארץ בחוצה לארץ מנין תלמ לומ לומ לא תעשו כל מקום שאתם מנין אף באדם תלמ לומ ובכם דברי בן חנינאי."
- המצוה החמשית והששית ממנו.** אסור לנו להביא קרבן מאתנן זונה ומחיר כלב, כמו שכתוב: "לא תביא אתנן זונה ומח' כל זכר." ואמרו רבותינו: "איזה הוא אתנן האומר לזונה הא לך זה בשכר הרי זה אתנן ואפילו מאה כלם אסורים." ואמרו: "אין לי אילא אתנן זונה אתנן כל העריות 10 מנין תלמ לומ לא תביא אתנן זונה מכל מקום." ואופן האתנן הוא גם כן בהמה שימסר אדם לחברו שיש לו שפחה בשכר שתלין אצלו והוא יקבל אותה מידו, כמו שאמרו: "האומר לחברו הא לך טלה זה ותלין שפחתך אצל עבדי רבי אומ' אינו אתנן וחכמ' אומ' אתנן." ומחיר כלב כונתו בהמה שנתקבלה תחת כלב. 15
- ושני שותפין שחלקו טלאים שלהם וכלב לשני חלקים שוים במספרם, תאסר המנה שלא עלה הכלב בכללה, כמו שאמרו: "איזה הוא מחיר כלב האומר לחברו הא לך טלה זה תחת כלב זה וכן שותפין שחלקו אחד נוטל עשרה ואחד נוטל תשעה וכלב שכנגד כלב אסורין ושעם כלב מותרין." ומי שעשה הפך המצוה הזאת, והביא 20 לוי יחברך אתנן כלב ומחיר זונה, מותר לו, כמו שאמרו: "תנו רבנן אתנן כלב ומחיר זונה שניהם מותרין שנ' שנים ולא ארבעה." וולדות האתנן וולדות מחיר כלב מותרות לקרבן, כמו שאמרו: "ולדותיהן מותרין שנ' גם שניהם ולא ולדותיהן." ואמרו בבאור בית י' אלהיך לכל נדר: "להוציא פרת חטאת שאינה באה לבית לכל נדר להביא את העוף שהיה 25 בדין ומה המוקדשין שהמום פוסל בהן אין אתנן ומחיר כלב חלין עליהן

13 a

- עוף שאין המום פוסל בו אינו דין שלא יהא אתנן ומחיר כלב חלין עליהן תלמ לומ לכל נדר להביא את העוף." **המצוה השביעית ממנו.** אסור להחליף ולהמיר בהמה שהוכנה להקרב בבהמה אחרת. ואם נעשה הדבר הזה תהיינה שתיהן לוי, כמו שכתוב: "לא יחליפנו ולא ימי את זכר." אם החליף את הולד של הנדר 5 לא תהיה תמורתו קדש; וכן אם החליף את התמורה לא תהיה תמורתה קדש, כמו שאמרו:

"הקדש עושה תמורה ולא הולד ולא תמורה עושין תמורה." "טוב ברע" —
 אף על פי שהחליף בעל מום בתמים, כמו שאמרו: "תמימין בבעלי מומין ובעלי
 מומין בתמימין." "ואם המר ימר" — שָׁנָה הכתוב לרבות גם את האשה והיורש, כמו
 שאמרו: "ואם המר ימר לרבות את האשה ואם המר ימר לרבות את היורש."
 10 וענין "בהמה בבהמה" שלא יחליף בהמה אחת במאה בהמות, או מאה בהמות
 בבהמה אחת בין שהרבה ובין שהפחית, כמו שאמרו: "אחת במאה ומאה באחת,"
 משום שהעברי קורא לבעלי חיים בהמייס הרבה בהמה, ולאחד גם כן בהמה, כמו שאמרו:
 "ר' שמעון אומ' בהמה בבהמה לא בהמה בבהמות אמרו לו בהמה אחת קרואה בהמה
 ובהמות רבות קרואות בהמה." וענין "יהיה קדש" בכל האופנים,
 15 בין מזיד ובין שוגג, כמו שאמרו: "יהיה קדש לעשות שוגג כמזיד." **המצוה השמינית**
ממנו. אסור לנו לאכל בחוצה למקום המיוחד את מעשר הדגן והתירוש והיצהר
 ובכורות הצאן והבקר והנדרים והנדבות והתרומות, כמו שכתוב: "לא תוכל לאכל
 בשעריך ו." את המעשרות נזכיר בספר הששי ואת הבכורות
 נזכיר בספר הארבעה עשר. והנדרים שנכון לעשותם בזמן הזה ומה שאינו
 20 נכון לעשותם, כבר הזכרנו פרטיהם בספר הראשון, לבר מה שנזכיר
 במה שיבוא אחר זה. ובדבר "ותרומת יריך" אמרו רבותינו: "אילו הבכורים."
 וכבר בארנו זה בספר הראשון. נשלם באורנו של החלק הראשון הכולל שמנה
 עשרה מצות. **החלק השני** כולל שבע מצות בדבר הקרבנות המובאים מן הדגן
 וכיוצא בזה, שאין חובה לעשותן בזמן הזה; והן נחלקות לשני חלקים; הראשון כולל

13 b

חמש מצות עשה וחשני כולל שתי מצות לא תעשה. **באור החלק**
הראשון. המצוה הראשונה ממנו. המתנדב להביא קרבן מנחה
 מסלת מִצָּחָה לצקת עליה שמן ולשים עליה לבונה; ויביא אותה אל
 הכהן וקמין ממנה מלא קמצו מסלתה ומשמנה עם כל לבונתה.
 5 והקטיר אותם על המזבח, קרבן מתקבל ומרצה ליה, כמו שכתוב: "ונפש כי תקריב
 קרבן מנחה ונ' והביאה אל בני אהרן הכהנים ו." המדה הפחותה בקרבן הזה
 עשרון שמשקלו תשיב דרכמונים; והמשקל הפחות שבשמן ק' דרכמונים, כמו שאמרו:

"ר נתן אומ' בנין אב לכל המתנדב מנחה שלא יפחות מעשרון ולג שמן." והמנחות
 שצריכים לקמין מהן, עשרה מינים הן: "מנחת הסלת והמחבת והמרחשת
 והחלות והרקיקים ומנחת גרים ומנחת נשים ומנחת העומר ומנחת החוטא
 ומנחת קנאות ר' שמעון אומ' מנחת חוטא של כהנים נקמצת והקומין
 קרב בעצמו והשירים קרבין לעצמן." ושעור קמיצה רחב שלש אצבעות
 הכף, שהן חוץ מן האגודל והאצבע, עד אשר יגיע אל הכף ולא ידביקן בכף;
 ויקמין בהן מתחת מלא קמצו ולא יוסיף עליו, כמו שאמרו: "אמ' ל אביי לרבה
 כאיוצד קומצין כדקמצי אינאשא אותיביה זו זרת זו קמיצה זו
 אמה זו אצבע זו גודל אילא להשוות היכא עביד אמ' רב זוטרא בר
 טוביה אמ' רב חופה שלש אצבעות על פס ידו וקומין תניא נמי הכי
 מלוא קמצו יכול מלוא קמצו מבורץ תלמ' לומ' בקמצו או בקמצו יכול
 קומין בראשי אצבעותיו תלמ' לומ' מלא קמצו הא כאיוצד חופה את
 פס ידו במחבת ובמרחשת מוחק באצבעותיו מלמעלה ולמטה." ועוד אמרו:
 "הקומין הותר והחסיר פסול איזה הוא יתיר שקומצו מבורץ וחסר
 שקמצו בראשי אצבעותיו." **המצוה השניה ממנו.**
 המתנדב קרבו מנחה ממאפה תנור מצוה להביא חלות מצות
 מסלת בלולות בשמן או ריקי מצות משוחים בשמן, כמו שכתוב: "וכי תקריב

14 a

קרבן מנחה מאפה ת' וג." כונת דבריו "חלות מצות בלולות בש' וג." שיש לו ברירה,
 כלומר, רצה מביא חלות, רצה מביא ריקים, כמו שאמרו: "אמ' ר' יהודה מנין לאומר
 הרי עלי מנחת מאפה שלא יביא מחצה חלות ומחצה ריקים תלמ' לומ' קרבן
 קרבן אחד הוא מביא ואין מביא חלות וריקים אמ' ר' שמעון וכי נאמר
 קרבן קרבן שני פעמים והלא לא נאמר אלא קרבן אחד ונאמר בו חלות
 וריקים רצה להביא חלות יביא ריקים יביא מחצה חלות ומחצה ריקים
 יביא וכשהוא קומין בולל וקומין משניהם ואם קמין ולא עלה בידו
 אילא אחד משניהם דיו." ועוד אמרו: "אלו מנחות נקמצות ושיריהן
 לכהנים מנחת הסלת והמחבת והמרחשת וג." ואמרו: "אמ' רב פפא כל היכא

10 דתנן עשר תנן ומאי קא משמע לן לאפוקי מדר' שמעון דאז' מחצה חלות ומחצה
 רקיקין יביא קא משמע לן דלא. ושעור השמן שמושחים בו את הרקיקים, על
 כל אחד מהם כחצי עגול, כמו שאמרו: "כאיזד מושתחין מושה פני כל הרקיק
 ר' שמעון אומ' מושה פני כל הרקיקים כמין כי ושאר השמן נאכל לכהנים
 מנחה שהיתה באה מחצה חלות ומחצה רקיקין מביא לג' שמן וחוצהו
 15 נותן מחצה לחלות ומחצה לרקיקין ר' שמעון אומ' מושה את הרקיקין
 כמין כי ושאר השמן נותן לחלות וכן היה ר' שמעון אומ' רקיקי מנחת ישראל
 פתיתתן בכזיתים כדי שיהא שולט בהן לקמצן חצי לג' מים לשוטה וחצי
 לג' לשמן לתורה נותן מחצה לחלות ומחצה לרקיקין ר' שמעון אומ' מושה
 את הרקיקין כמין כי ושאר השמן נאכל לכהנים וכן היה ר' שמעון אומ'
 20 האומ' הרי עלי מנחת מאפה מביא מחצה חלות ומחצה רקיקין ובולל
 ונוטל מן האמצע ואם נתן כמין על חברו יצא. "מאי כמין כי אז' רב כהנא
 כמין כי יוני." **המצוה השלישית ממנו.**
 המתנדב קרבן מנחה על המחבת מִצָּחָה להביא סלת מצה
 בלולה בשמן. אחר כך יָפַת אותה פתים ויצק עליה שמן, כמו שכתוב: "ואם
 מנחה על המחבת

14 b

ק' וז' פתות אותה וז'. וההוכחה שמחבת היא קערה דברי רבותינו: "מחבת
 צפה ומעשיה קשים," "פתות אתה פ'" — שעורה כזית. כמו שאמרו: "מנחת
 ישראל קופל אחד לשנים ושנים לארבעה ומבדיל מנחת כהנים קופל
 אחד לשנים ושנים לארבעה ואינו מבדיל מנחת כהן-משיח לא היה
 5 מכפלה ר' שמעון אומ' מנחת כהנים ומנחת כהן משיח אין בהן פתיתה
 מפני שאין בהן קמיצה וכל שאין בהן קמיצה אין בהן פתיתה וכלם
 פתיתתן בכזיתים." ואמרו: "תניא היה עומד ומקריב מנחות בירושלים אומ' בר' שהחינו
 וקיימנו וז' נטלן לאכלן אומ' המוציא לחם מן הארץ ותנן וכלן פתיתתן
 בכזיתים." ופותחים כל מיני המנחות חוץ משתי הלחם ולחם הפנים,
 10 כמו שאמרו: "מנחה לרבות כל המנחות לפתים יכול אף שתי הלחם ולחם הפנים
 תלמ' לזמ' אתה מ'מה ראית לרבות את כל המנחות ולהוציא שתי הלחם

ולחם הפנים אחר שריבה הכתוב מיעט מה אילו מיוחדין שיש מהם לאשים
יצאו שתי הלחם ולחם הפנים שאין מהם לאשים.

המצוה הרביעית ממנו. המתנדב קרבן הנעשה

15 במרחשת מצוה לעשות אותו מסלת ושמון, כמו שכתוב: "ואם מנחת מרחשת קרבנך

ו.", הראיה שמרחשת היא כלי טנון דבריהם: "מה בין מחבת למרחשת מרחשת

יש לה כיסוי ומחבת אין לה כיסוי דבריו ר' יוסי הגלילי ר' חנניה בן גמליאל

אומ' מרחשת עמוקה ומעשיה רוחשים מחבת צפה ומעשיה קשים.

המצוה החמשית ממנו. מצוים אנו למלח את הקרבנות, כמו שכתוב:

"וכל קרבן

20 מנחתך במלח תמ' ו." אין דבריו אלה מרבים כל המנחות למליחה, אלא החלק הקרב

על המזבח, לא זולתו, כמו שאמרו: "יכול תהא מנחה בלה טעונה מלח תלמ' לומ'

קרבן הקומץ טעון מלח ואין כל המנחה טעונה מלח." ודבריו "ולא חשבית

מלח" ענינם מלח שגריריו עבים, משום שהוא נשאר על הדבר הנמלח

ואינו נמס מהרה, כמו שאמרו: "ולא חשבית לא חשבית מלהביא מלח שאינה

15 a

שובתת ואיוו זו סדומית ומנין אם לא מצא סדומית יביא אסתרקנית

תלמ' לומ' תקריב מלה רבה, ענין "על כל קרבנך תמ'" — למלח את כל החלקים

הקריבים, כמו שאמרו: "תניא בשלשה מקומות המלח ניתנה בלשכת המלח

ועל גבי הכבש ובראשו של מזבח בלשכת המלח ששם מולחין עורות

5 קדשים ועל גבי הכבש ששם מולחין את האברים ובראשו של מזבח

ששם מולחין הקומץ והלבונה ומנחת כהנים ומנחת כהן משיח ומנחת

נסכים ועלת העוף, ואופן מליחת הדבר הנמלח הוא על שני צדי האבר, כמו שאמרו:

"תנו רבנן באיוצד הוא עושה מביא את האבר ונותן עליו מלח וחוזר והופכו

ונותן עליו מלח ומעלהו אמ' אביו וכן לצל." נשלם באורנו של חמש המצות

10 שנזכרו למעלה. שתי המצות שהנן מצות לא תעשה.

המצוה הראשונה ממנו. אסור להקריב שאור או דבש, כמו שכתוב: "כי כל

שאר וכל דבש ו.", והקדמונים היו קוראים לתמר דבש, כמו שאמרו: "איזה הוא

דבש זה דבש תמרים." ומה שיוכיח שהכונה כאן לתמר לא לדבשו דבריו "קרבן ראשית
 תקריבו א' ל'." וזה מדבר בכורים; וכיון שלא יתכן להקריב בכורים
 15 דבש, למדנו שזה תמר לא דבש, כמו שאמרו: "אין מביאין בכורים משקין אילא
 היוצא מן הויתים ומן הענבים ואין מקריבין על גבי המזבח אלא היוצא מן
 הויתים ומן הענבים." ואם נתערב מעט משני הדברים הללו בדבר הקרב, אסור
 להקריבו, כמו שאמרו: "אין לי אילא המרבה הממועט מנין תלם לומר כל שאר ואין
 לי אילא הוא עצמו ערובין מנין תלם לומר כי כל שאר דבש לא תקטירו
 20 אין לי אילא המרבה הממועט מנין תל לומר דבש אין לי אילא הוא עצמו
 ערובין מנין תלם לומר וכל דבש." **המצוה השניה ממנו.**
 אסור לזר שאינו מבני אהרן להתערב בבני אהרן בדבר שנתעלו בו על כל ישראל,
 כמו שכתוב: "וזר לא יקרב אליכם." ואמרו רבותינו: "וזר לא יקרב אליכם למה נאמרה לפי

15 b

שהוא אומ' והזר הקרב יומת עונש שמענו אזהרה לא שמענו תלם לומר
 וזר לא יקרב אליכם." נשלם באורנו של החלק השני הכולל שבע המצות
 שנזכרו למעלה, החלק השלישי יכלול אחת עשרה מצות בדבר הנכסים
 וערכי הנפשות וכיוצא בזה: והן נחלקות לשני חלקים: הראשון כולל שמנה מצות שאין
 5 עלינו חובה לעשותן בזמן הזה, חמש מהן מצות עשה ושלוש מצות לא תעשה; והשני
 יכלול שלש מצות עשה שחובה לעשותן בכל זמן ומקום. **באור חמש המצות**
שהנן מצות

עשה. המצוה הראשונה ממנו. כל איש שנדר נפשו ליי מצוה שערכו יהיה, מיום
 שמלאו לו עשרים שנה עד יום מלאת לו ששים שנה, חמישים שקלי כסף בשקל
 הקדש, כמו שכתוב: "איש כי יפלא נדר וז' והיה ערכך ה' ז'." ואם הנודרת היתה אישה
 10 יהיה ערכה, מיום שמלאו לה עשרים שנה עד יום מלאת לה ששים שנה, שלשים שקל, כמו
 שכתוב: "ואם נקבה היא ז'." ואם האישה הנודרת היה בן ששים שנה ומעלה, ערכו יהיה
 חמשה עשר שקל; והאשה בת ששים שנה, עשרה שקלים, כמו שכתוב: "ואם מבן ששים
 שנה ומעלה ז'." וערך הנדור מיום שמלאו לו חדש ימים ועד חמש שנים, חמשה
 שקלי כסף. ואם היתה נקבה — שלשה שקלים, כמו שכתוב: "ואם מבן חדש ועד בן

15 חמש שנים וז." וערך הנדור, מיום שמלאו לו חמש שנים ועד עשרים שנה, עשרים שקלי כסף. ואם היתה נקבה — עשרה שקלים, כמו שכתוב: "ואם מבן חמש שנים ועד בן עשרים ש' וז." ואם היה הנדור עני, כלומר, מכ מערכך, יכריחנו הכהן לתת כפי אשר תשיג ידו, כמו שכתוב: "ואם מכ הוא מערכך וז." והמישנה אומרת: "הכל מעריכין ונערבין ונודרין ונידרין כהנים ליום וישראל גרים ונשים 20 ועבדים טומטום ואנדרגנוס נודרין ונדרין ומעריכין אבל לא נערבין שאינו נערך אילא זכר ודאי ונקבה ודאית. חרש שוטה וקטן נידרין ונערבין אבל לא נודרין ולא מעריכין מפני שאין בהן דעת פחות מבן חדש נדר אבל לא נערך." הטעם של דבריהם "שאינו נערך אילא זכר ודאי ונקבה ודאית," משום ש'י יתברך אמר: "והיה ערכך הזכר וז' ואם נקבה היא וז." וגם

16 a

טעם דבריהם "פחות מבן חדש נידר אבל לא נערך" הוא משום ש'י יתברך אמר בדבר הערכים "ואם מבן חדש וז." ויש הבדלים בין נדר לערך. אם אמר אחד דמי ידי עלי יעריכנו השופט כפי היתרון שיש לעבד ביד מן העבד בלא יד. אבל אם אמר ערך ידי עלי אינו צריך לתת כלום. ואם אמר אחד מאבריו 5 הראשים, כלומר, לבו, או ראשו, או כבדו, חייב לתת דמי כל גופו, משום שקיום גופו תלוי בכל אחד מהם, כמו שאמרו: "דמי ידי עלי שמין אתו כמה הוא שוה ביד וכמה הוא שוה בלא יד." "ערך ידי וערך רגלי עלי לא אמר כלום ערך ראשי וערך כבדי עלי נותן ערך כלו זה הכלל כל דבר שהנשמה תלויה בו נותן ערך כלו." ואם נדר בן חדש או בן חמש שנים וכיוצא בהם, ולא שלם, אינו חייב אלא לפי שנות הנדור בעת שנדר, כמו שאמרו: "העריכו פחות מבן 10 חמש ונעשה יתר על בן חמש פחות מבן עשרים ונעשה יתר על בן עשרים נותן כזמן הערך." ואם אמר חצי ערכי עלי ישלם כזה, כמו שאמרו: "חצי ערכי עלי נותן חצי ערכו;" אבל אם אמר ערך חצי עלי חייב לשלם ערך כלו; ואם אמר חצי דמי עלי חייב לתת חצי דמיו; אבל אם אמר דמי חצי עלי חייב לשלם דמי כלו, כמו שאמרו: 15 "ערך חצי עלי נותן ערך כלו חצי דמי עלי נותן חצי דמיו דמי חצי עלי נותן דמי כלו זה הכלל דבר שהנשמה תלויה בו נותן דמי כלו." וגם העני אינו נותן בערכו פחות

מסלע, ואם העשיר אינו מוסיף כלום. ואם היה בידיו פחות מסלע ואחר כך העשיר חיב לתת ערך עשיר, כמו שאמרו: "אין בערכין פחות מסלע ולא יותר מחמישים סלע כאיוצד נתן סלע והעשיר אין נותן כלום פחות מסלע והעשיר נותן 20 חמישים סלע היו בידיו ה' סלעים ו' מאיר אומ' אין נותן אילא אחת וחבמ' אומ' נותן את כלם." **המצוה השניה ממנו.** כל איש שהקדיש ביתו ליי מצוה שיעריכנו הכהן לפי טובתו ורעתו. ואם רצה המקדיש לגאל אותו ישלם את אשר העריכו הכהן ויוסיף חמש, כמו שכתוב: "ואיש כי יקדיש את ביתו קד' ונ' ואם המקדיש יגאל ונ'." ורבותינו אמרו בבאור הענין הזה: "יכול

16 b

בבית דירה הכתוב מדבר כשהוא אומ' ואם המקדיש יגאל את ביתו הרי בית דירה אמור." ואמרו: "ואם המקדיש יגאל את ביתו לרבות את האשה ואם גאל יגאל לרבות את הורש." **המצוה השלישית ממנו.** כל איש שנדר ליי בהמה טמאה אשר לא יקריבו ממנה קרבן ליי, מצוה 5 להעמיד אותה לפני הכהן והעריך אותה לפי טובתה ורעתה. ואם רצה המקדיש לפדותה יוסיף חמש על ערכה, כמו שכתוב: "ואם כל בהמה טמאה ונ' והעריך הכהן א' ונ' ואם גאל יגאלנו ונ'." בדבריו "בהמה טמאה" אינו מתכוון לטמאה שבבהמות אלא לבעלת מום שאסור להקריב כמות, כמו שאמרו: "יכול בבהמה טמאה הכתוב מדבר כשהוא אומ' ואם בבהמה טמאה ופרה בע' ונ' הרי 10 בהמה טמאה אמורה הא אינו מדבר אילא בפסולי המוקדשים שיפדו יכול יפדו על מום עובר תלמ' לומ' אשר לא יקריבו ממנו קרבן ליי יצא בעל מום עובר שהוא כשר למחר: טמאה לרבות את המתה." ואמרו רבותינו בדבר הקדש וערכים וחרמים: "תניא אין מקדישין ואין מעריכין ואין מחרימין בזמן הזה הקדיש העריך החרים בהמה תעקר פרות 15 כסות וכלים ירקבו מעות וכלי מתכות יוליד לים המלח אויה הוא עיקור נועל דלת בפניה ומתה מאליה." **המצוה הרביעית ממנו.** כל נזיר שמת עליו מת פתאם, או שלא נזהר, ונפסקה תחלת נזרו, מצוה לגלח את ראשו ביום השביעי שהוא יום טהרתו ולהביא ביום השמיני לטמאתו

שתי תורים או שני בני יונה אל הכהן אל פתח אהל מועד, ועשה
 20 אחד מהם לחטאת ואחד לעולה וכפר עליו מאשר חטא בשביל המת.
 וקדש את ראשו ביום ההוא, אחר כך ישוב לנזרו ויביא כבש בן שנתו לקרבן
 אשם, והימים שעברו מנזרו קודם שנטמא, יפלו מן הזמן שנדר
 להיות נזיר, לפי שנפסק נזרו, כמו שכתוב: "וכי ימות עליו וְגו' וביום
 השמיני וְגו' ועשה הכהן לִי את ימי וְגו'". כונת דבריו "וכי ימות" שהיה

17 a

הנזיר במקום שהיה שם חולה ומת פתאם בעת שהוא היה שם, או שהיה אצל
 אדם בריא ומת בפתע, בין שהיה הנזיר שונג ובין שדבר מנעהו מלצאת משם,
 כמו שאמרו: "וכי ימות לרבות שנפל הבית עליו ועל המת בפתע פתאם לרבות
 שמת עמו בפונדק." ועוד: "בפתע להביא את האנוס פתאם להביא את
 5 השונג דברי ר' יאשיה ו' יונתן אומ' בפתע זה שונג פתאם זה אנוס."
 "וגלח ראשו ביום טהרתו" — ביום השביעי אחרי שנטמא מן המת, אחר כך צריכים
 להיות עליו בשלישי וגם בשביעי מאפר הפרה, כמו שכתוב: "הוא יתחטא בו ביום הש' וְגו'".
 ואמרו רבותינו: "תגלחת טמאה כאיזוד היה מזה בשלישי ובשביעי ומגלח
 בשביעי ומביא קרבנותיו בה ואם גלח בה מביא קרבנותיו בו ביום דב'
 10 ר' עקיבא אמ' לו ר' טרפון מה בין זה למצורע אמ' לו שזה טהרתו תלויה
 בימיו ומצורע טהרתו תלויה בתגלחתו אינו מביא את קרבנותיו אלא אם כן היה מערב שמש."
 ואם חל יום השביעי שלו להיות בשבת או ביום טוב מאחרים את טהרתו למחרת,
 כמו שאמרו: "ביום טהרתו ביום הזאתו בשביעי אין לי אלא בשביעי שמיני תשיעי עשירי מנין
 תלמ' לומ' יגלחנו אין לי אלא ביום בלילה מנין תלמ' לומ' יגלחנו אין לי אלא
 15 תגלחת טמאה תגלחת טהרה מנין תלמ' לומ' יגלחנו מיכן אמרו תגלחת
 טמאה כאיזוד מגלח ואחר כך מביא ואם הביא ואחר כך מגלח לא יצא."
 "וביום השמיני יביא שתי ת' וְגו'"—הבררה בידו לבחר באיזה מהם שירצה; ויש לזה דגמאות
 שבארנו בשלמות במבוא לספר הזה, "והביא" — כונתו שחובה עליו להביאם
 בעצמו, כמו שאמרו: "מלמד שהוא חייב בטיפול הבאתן עד שיביאן אל הכהן
 20 אל פתח אהל מועד." "מאשר חטא על הנפש" — כונתו שחטא לנפשו

שלא נזהר כראוי מטמאת מת, כמו שאמרו: "ר' אלעזר הקפר אומ' וכי באיוז
נפש חטא זה שצריך כפרה שציער עצמו מן היין והלא דברים ק"ו ומה אם המצער נפישו
מן היין צריך כפרה קל וחומר
למצער נפשו מן כל דבר ר' ישמעאל אומ' בנויר טמא הכת מדבר שז'
וכפר עליו מאשר חטא על הז' שמיטמא למתים." "וקדש את ראשו

17 b

ביום ההוא והזיר ליי את ימי נזרו — תחלת ימי נזרו צריכה להיות מיום
התנלחת, כלומר, היום השביעי, כמו שאמרו: "נמצאנו למדים שמתחיל למנות מיום
שגולח," "והימים הראשונים יפלו" — אם עוד נשאר מימי נזרו, כמו שאמרו: "והימים
הראשונים יפלו וז' מי שיש לו אחרונים סותר את הכל מנין שאם אמר הריני נזיר מאה
5 יום נטמא ביום מאה חסר אחד סותר את הכל תלמ' לומ' והימים הראשונים
יפלו וז'," ואם אכל דבר היוצא מן הגפן לא יפתרו הימים שעברו מניירותו,
אבל ילקה כמו שנבאר במה שיבוא. **המצוה החמשית ממנו.**
כל נזיר שמלאו ימי נזרו מצוה להביא ביום מלאת הימים אל פתח
אהל מועד שלש צאן, והן: כבש בן שנתו תמים לעולה
10 ובבשה בת שנתה תמימה לעולה ואיל תמים לזבח השלמים וסל
מצות, חלות מצות בלילות בשמן וגם רקיקי מצות משוחים בשמן ומנחתם
ונסכיהם. והכהן יקריב אותם לפני יי ויעשה את חטאתו ואת עולתו. ואת האיל
יעשה זבח שלמים ליי על סל המצות. אחר כך יעשה את מנחתו ואת נסכו
אשר אתם. וגלח הנזיר אצל פתח אהל מועד את שער ראשו ולקחו והשליכו
15 על האש אשר תחת זבח השלמים. ולקח הכהן את הזרע בשלה מן
האיל וחלת מצה ורקיקי מצה שלו ונתן אותם על כפי הנזיר אחרי שגלח
את שערו והניף אותם תנופה לפני יי ויהיו קדש לכהן עם חזה התנופה
ושוק התרומה, ואחר יתה הנזיר יין, כמו שכתוב: "זאת תורת הנזיר ביום
מלאת וז' והקריב את קרבנו ליי וז' וסל מצות וז' והקריב לפני יי וז'
20 ואת האיל יעשה וז' וגלח הנזיר פתח וז' ולקח הכהן וז' והניף אתם הכהן תנופה
ל' וז'." בדבריו "ביום מלאת ימי נזרו" רוצה לומר מי שיש לנזרו זמן קצוב,
לא נזיר עולם, כמו שאמרו: "אחד נזיר ימים ואחד נזיר עולם לקרבן טהרה או

18 a

אף קרבן טמאה תלמ' לזמ' ביום מלאת ימי נזרו לא אמרתי
 אילא במי שיש לו פסיק לנזירותו: "חלות תורה והנזירה שהן באות עשר עשר" וחמשיחה
 הן עשר עשר, כמו שאמרו: "חלות תורה והנזירה שהן באות עשר עשר" וחמשיחה
 כחצי עגול, כמו שאמרו: "ורקיקי מצ' מש' יכול בדרך המשוחים בשמן כדי קיום
 5 שמן באיזר הוא עושה טובל באצבעו ונותן אחת על זו ואחת על זו כמין
 כי," "ולקח את שער נזרו ונתן על האש" — אמרו שמדביק אל השער מעט
 מרטב הבשר ומשליך על האש, כמו שאמרו: "תניא ואחר כך נוטל את הרוטב
 ונותן על שער ראש נזרו ומשלה את הרוד של שלמים ואם שלה תחת הדוד
 של חטאת יצא רוטב מז' לן אמ' קרא אשר תחת זבח השלמים מזבח יהיה תחתיו."
 10 "והניף אתם הכהן תנופה לפני יי" — כונתו שינענע כלפי כל צד וצד, כמו
 שאמרו: "מוליך ומביא מעלה ומוריד שנ' אשר הונף ואשר הורם," ועוד אמרו: "אמ'
 ר' חייא בר אבא אמ' ר' יוחנן מוליך ומביא למי שהרוחות שלו ומעלה ומוריד
 למי שהשמים והארץ שלו הוא במערבא מתני הכי אמ' ר' חמא בר עוקבה אמ' ר'
 יוסי בר חנינא מוליך ומביא כדי לעצר רוחות רעות מעלה ומוריד כדי
 15 לעצר טללים רעים," "לפני יי" — בצד מזרח, כמו שאמרו: "לפני יי" במזרח
 שבכל מקום שנא לפני יי הרי הוא במזרח עד שיפרוט לך הכתוב."
 נשלם באורנו של חמש המצות שנזכרו למעלה, שלש מצות לא תעשה.
 הראשונה מהן. אסור לו לנזיר לאכל דבר מענבי הגפן בין לח ובין יבש ולשתות
 דבר הנעשה מהם, כגון יין ושכר וכל יין ושכר ועסים, וגם לאכל חרצן וזג,
 20 כמו שכתוב: "דבר אל בני ישראל ואמ' אלה איש או אשה כי יפלא לנדר זג'
 מיי ושכר יזיר זג' כל ימי זג' ולדבריו ענבים לחים נוסף הבסר
 מן הגפן כמו שאמרו: "לחים להביא את הבסר יבשים להביא כל יבשים."

18 b

ויש הבדל בין מלת גפן וכרם, משום שגפן נופל ביחוד על מיני הגפן
 ולא על זולתם, וכרם יכלל גם עצי זית, כמי שכתוב: "ויבער מגדיש ועד
 קמה וע' כ' ז." ואמרו רבותינו: "אמ' רב פפא כרם זית איקרי סתמא לא
 VOL. VI. K

אִקְרָא. ואמר "מנפן היין" משום שבין ביחוד לגפן, לא לזולתו. ועליו אינם
 5 אסורים על הנזיר ואינם אסורים בערלה ונטע רבעי; אבל עלי עין אשרה
 אסורים, כמו שאמרו: "העלים והלולבין מגפנים ומסמדר מותרין בערלה וברביעי
 ובנזיר ואסורין באשרה." ואם שתה הנזיר יין משקלו כֹּה דרכמונים ומעלה
 צריכים להלקותו, כמו שאמרו: "אמ ר' אלעזר עשר רביעיות הן נקיט רב כהנא בתריה
 חמש סומקאתא וחמש חיוראתא חמש סומקאתא מאי ניהו נזיר ועשי
 10 הפסח הורו ונכנס ומתים נזיר רביעית יין לנזיר עושי הפסח דאמ רב יהודה
 אמ שמואל ארבעה כוסות הללו צריכין שיהיו בהן כדי רביעית שהורו שתה
 רביעית יין לא יורה ונכנס שתה רביעית יין ונכנס למקדש
 חייב מיתה ומתים דתניא מנין לרביעית דם שיצאה משני מתים שיהא
 מטמא באהל שנא ועל כל נפשות מת לא יב חמש חיוראתא חלת נזיר
 15 ומצורע שנפסלו בשבת חלת רביעית שמן לחלה נזיר רביעית שמן לנזיר
 מצורע רביעית שמן למצורע שנפסלו דתנן
 ושאר כל המשקין פוסלין את הגויה ברביעית בשבת דתנן ושאר כל
 המשקין ברביעית ושאר כל השפוכים ברביעית להוצאת שבת ותו לויכא
 והאיכא מי רביעית נוטלין ממנו לידים לאחד ואפילו לשנים בפלוגאתא
 20 לא קא מירי והאיכא היה מביא פולי של חרס ונותנין לתוכה חצי לג
 מים מן הכיור ור' יהודה אומ' רביעית בפלוגאתא לא קא מירי
 והאיכא כמה מים נותנין לתוכה כל שהוא ר' זכאי אומ' רביעית
 בפלוגאתא לא קא מירי והאיכא מקוה בר מחהיא דבטלוה רבנן."

19 a

והבאורים של הענינים האלה ארכים, ואנחנו נקצר אותם, משום שבדעתנו
 להרחיב בבאור הקצבות, רצוני לומר השיעורים, בספר שניחד לזה. ואמרו
 בענין הזה וברבר הוספת המלקות בשבילו: "חייב על היין בפני עצמו ועל הענבים
 בפני עצמן ועל החרצנים בפני עצמן ועל הזגין בפני עצמן." אמר רבא אבל
 5 חרצן לוקה שתיים משום חרצן ומשום מכל אשר יעשה מנפן היין וזג לוקה
 שתיים חרצן וזג לוקה שלש משום חרצן ומשום זג ומשום כל אשר

יעשה מגפן היין, ועוד: "ר' אלעזר בן עזריה אומ' אינו חייב עד שיאכל שני
 חרצנין וזגן." החרצן הוא הקליפה, והזג הוא הגרעין שבתוך הענב, כמו שאמרו:
 "אילו הן החרצנין ואילו הן הזנין החרצנין אילו החיצונין והזנין אילו הפנימיים
 דברי ר' יהודה ר' יוסי אומ' כדי שלא תטעה בזוג של בהמה החיצון זוג והפנימי
 ענבול." ואמרו בדבר משרת ענבים: "משרת ליתן טעם כעיקר שאם שרה
 ענבים במים ויש בהן טעם יין אסור." **המצוה השניה ממנו.**
 אסור לו לנזיר לגלח את שער ראשו בעת נזירותו וצריך הוא לגדלהו, כמו שכתוב:
 "כל ימי נדר נזרו וז.", ורבותינו אמרו שזמן הנזיר אינו פחות משלשים יום, כמו שאמרו: "סתם
 נזירות שלשים יום אמר הריני נזיר אחת גדולה הריני נזיר אחת קטנה אפילו מיכן
 ועד סוף העולם נזיר שלשים יום הריני נזיר ויום אחד הריני נזיר
 ושעה אחת הריני נזיר אחת ומחצה הרי זה נזיר שתים הריני נזיר שלשים
 יום ושעה אחת נזיר שלשים ואחד יום שאין נזירין שעות." ואם אמר
 בנדרו: "הרי שמתי מספר ימי נזירותי כמספר שער ראשי או כמספר גרגרי
 החול והעפר" צריך להיות נזיר כל ימי חייו, כמו שאמרו: "הריני נזיר
 כשער ראשי וכעפר הארץ וכחול הים הרי זה נזיר עולם ומגלח
 אחת לשלשים יום." ואם אמר כמספר ימות השנה חייב להיות נזיר לכל
 יום ממנה שלשים יום, כמו שאמרו: "הריני נזיר כמנין ימות השנה מונה נזירות
 כמנין ימות השנה אם ר' יהודה מעשה היה ובין שהשלים מת," וצריכים להוסיף גם

19 b

יתר הכלים שמשירים בהם את השער אל ענין "תער לא יעבר על ראשו." ואם
 נפל מקצת שער, משום שחפף את המקום ההוא או שספספו בחזקה, אין בכך
 כלום, כמו שאמרו: "נזיר בין שגלח בין בזוג ובין בתער או שספסף כל שהוא
 חייב נזיר חופף ומספסף אבל לא סורק ר' ישמעאל אומ' לא יחף
 באדמה מפני שהיא משרת את השער." ואם היה נזיר עולם מותר לו
 להקל את שערו כשהכביד עליו ולתת כפרו קרבן שיקריב, כמו שאמרו: "נזיר
 עולם הכביד שערו מקל בתער ומביא שלש בהמות." ואם נראתה בנזיר
 צרעת טמאה צריך לגלח את כל שער ראשו ביום טהרתו, אף על פי

שעדין לא מלאו ימי נזירותו, כמו שאמרו: "נאסר הנזיר בשלש מצות מלשחות
 10 יין ומלגלח ומלטמא למתים והותר בשתים מהם מצוה לגלח
 תנלחת מצוה ולטמא על מת מצוה." ומן הזמן שעבר לנזירותו יפלו
 שלשים יום, כמו שאמרו: "והתנלחת אינה סותרת אילא שלשים יום ואין
 חייבין עליה קרבן." וענין "עד מלאת הימים" כשהיה לזמנו זמן
 קצוב לא נזיר עולם. ודבריו "גדל פרע שער ראשו" כונתם שהיה איש שעיר; ואם
 15 היה קרח חייב ביתר דיני הנזירות, כמו שאמרו: "כי נזר אלהיו על ראשו
 בין שיש לו שער ובין שאין לו שער." ומי שרומז בחיובי הנזירות עליו, אף על פי
 שבטא מלים שכונתם סתומה, חייב להיות נזיר, מאחר שהמלים
 שהוציא מפיו ענינן נזירות, כמו שאמרו: "כל כנויי נזירות כנזירות האומר
 איהא נזיר הרי זה נזיר איהא נאה נזיר נזיק נזח ופזיה הרי זה נזיר
 20 הריני בזה הריני מסלסל הריני מכלכל הריני עלי לשלח פרע הרי זה נזיר
 הרי עלי כצפרים ה' מאיר אומ' נזיר וחכמ' אומ' אינו נזיר." ואם רמז
 ברמזיה לרמז הרומז לרמזיה הזאת אינו חייב בחיובי הנזיר,
 כמו שאמרו: "בית שמאי אומ' כינויי אסורים ובית הלל אומ' כינויי
 כינויין מותרין." היכי דאמי כינויי כינויין דנזירות תיני רב יוסף מנויקנא

20 a

מנויהנא מיפזאנא, המצוה השלישית ממנו. אסור לו
 לנזיר להכנס במקום שיש שם מת, כמו שכתוב: "כל ימי הזירו לך ע' וי." מותר לו
 לנזיר להתעסק בקבורת מת מצוה כשאין אחר שמותר לו לקברו, כמו שאמרו: "כהן גדול
 ונזיר אינן מיטמאין לקרובותיהן היו מהלכין בדרך ומצאו מת מצוה
 5 ה' אליעזר אומ' יטמא כהן גדול ואל יטמא נזיר וחכמ' אומ' יטמא נזיר
 ואל יטמא כהן גדול אמ' לה' ה' אליעזר יטמא כהן גדול שאינו מביא
 קרבן על טמאתו ואל יטמא נזיר שהוא מביא קרבן על טמאתו אמרו לו
 יטמא נזיר שקדושתו קדושת שעה ואל יטמא כהן שקדושתו קדושת
 עולם." ואמרו: "איזה הוא מת מצוה כל שאין לו קוברים קורא ואחרין
 10 עונין אותו אין זה הוא מת מצוה." ואל האסור לגעת במת יחוסף גם האסור

לגעת בדמו שמשקלו חמשים דרבמונים ומעלה; ויטמא גם על ידי חלק מן המת ששעורו כזית ומעלה, כמו שאמרו בענין הזה וזולתו: "על אילו טמאות הנזיר מנגח על המת ועל כזית מן המת ועל כזית נצל ועל מלוא תרור רקב ועל השדרה ועל הגלגלת ועל איבר מן המת ועל איבר מן החי שיש עליהם 15 בשר כראוי ועל חצי קב עצמות ועל חצי לג דם ועל מגען ועל משאן ועל אהלן ועל עצם כשעורה." ואת המאמר הזה נבאר במצוה השניה מן הספר התשעה עשר. ואמרו בבאור "הרקב": "תנו רבנן איזה הוא מת שיש לו רקב מת שנקבר ערום בארון של שיש על גבי רצפה של אבנים זה הוא מת שיש לו רקב ואיזה הוא מת שאין לי רקב נקבר בכסותו בארון של שיש 20 על רצפה של אבנים זה הוא מת שאין לו רקב אם עולא אין רקב אילא הבא מן הבשר ומן הנידים ומן העצמות." ואמרו: "תנו כל שבמת מטמא חוץ מן השנים ומן השער והצפורן ובשעת חבורן הכל טמא." ומצות הנזיר אינה חובה בזמן הזה. ההוכחה לזה היא דברי רבותינו: "כל נזיר עד שלא חרב בית המקדש נזיר משחרב בית המקדש אינו נזיר." 25 נשלם באורנו של שלש המצות שנזכרו למעלה.

20 b

החלק הכולל שלש מצות עשה.

המצוה הראשונה ממנו. הנודר מצוה לשלם את נדרו, כמו שכתוב: "מוציא שפתיך תשמר וע' ו." המלה "ועשית" ענינה שצריכים לזרוז לעשות מה שנדר, והכונה בזה שבית דין חבים לזרוז לעשות כדבריו כשידעו שיש בידו היכלת 5 לעשותם, כמו שאמרו: "ועשית הרי זו אזהרה לבית דין שיעשוך." ואמרו בבאור הענין הזה: "כאשר נדרת זה נדר ליי אלהיך אלו ערבין וחרמים והקדש נדבה זו נדבה אשר דברת זו הקדש ובדק הבית בפיו זו צדקה." וכבר בארנו זה בספר הראשון. המצוה השניה ממנו. איש שנדר נדר ליי או נשבע שבועה לאסר אסר על נפשו מצוה לכל 10 יחל דברו, אלא יעשה ככל היוצא מפיו, כמו שכתוב: "איש כי ידר נדר ליי או חש ו." בר דעת חייב לשלם את נדרו אף על פי שלא היה אילא יב שנה ויום אחד

בעת שנדר, ואם לא ידע מה שנדר ואינו בר דעת אין הנדר חל עליו, ואם היה מספר שנותיו פחות משנים עשרה שנה ויום אחד, אף על פי שהוא בר דעת, אינו חייב בנדרו גם אם יכול לקימו. אבל אם היה בעת שנדר בן שלש עשרה שנה ויום אחד ומעלה, והיה בר דעת, ויש לאל ידו לעשות מה שנדר, ואמר: "אין לי שום הבחנה ומושג במי שנדרתי ולא אדענו," חייב לשלם את נדרו, כמו שאמרו: "בן י"ב שנה ויום אחד נדריו נבדקין בן י"ג שנה ויום אחד נדריו קימין ובדקין כל שלש עשרה קודם הזמן הזה אף על פי שאומרין יודעין אנן לשם מי נדרנן ולשם מי הקדשנן אין נדרהין נדרין ואין הקדישן הקדש לאחר הזמן הזה אף על פי שאומרין אין אנן יודעין לשום מי נדרנן ולשום מי הקדשנן נדרהין נדרים והקדישן הקדש," ודבריו "כי תדר נדר לך" כונתם שהנדר יהיה ברור ומובן, ושצריך לצרף אליו שם אלהים, ולהזכיר את התנאי אם היה הנדר על תנאי. ודוקא כשהיה הענין שנדר אפשר; אבל אם לא היה אפשר, אין הנדר חל עליו, כמו שאמרו: "את שהסמך את נדרו בדבר שאיפשר

2I a

לו הרי זה נדר ואם לאו אינו נדר." והמפרש את נדרו והרומז אליו שיום בנדר, כמו שאמרו: "האומר קונם קונת קונם הרי אילו כנויים לקרבן חרק חרך חרף הרי אילו כינויין לחרם נזק נזיח ופזיח הרי אילו כינויין לנזירות" ואם היתה הרמיזה רמז אל הרמיזה הזאת, אינו חייב לעשות את נדרו, 5 כמו שאמרו: "בית שמאי אומ' כינויי אסורין ובית הלל אומ' כינויי כינויין מותרין היכי דאמי כינויי כינויים תיני רב יוסף מקנימנה מקניחנא מקניסנא כינויי כינויים דחרם תיני רב יוסף טפיטא חרקיא חרביא חרפיא כינויי כינויים דנזירות תיני רב יוסף מנזיקנא מנזיחנא מפזיחנא." וגם בשבועות דבריהם כך, כמו שאמרו: "כינויי כינויים דיטבעה היכי דאמי שבואל שבוחאל שקוקאל שבואל בן גרשום מישמע אילא שבובאל שבוחאל שקוקאל אומ' שמואל שיבתא לא אומ' כלום אשקוקא לא אומ' כלום קדנאסא לא אומ' כלום." והשבועה לכלי עשות דבר או לעשותו והרמז אל הדבר שיום דיניי שבועה, כמו שאמרו: "שבוחא שקוקה נדרה

במוהה הרי אילו כינויים לשבועה. והנדרים והשבועות חלים על הנודר
 15 והנשבע רק כשהמלים מתאימות לכונתו, כמו שאמרו: "עד שיחא פיו ולבו שוים."
 לאסר אסר על נפשו — שבועה המתכונת לעצר את הנפש, ולהמנע מעשות דבר
 שמותר לעשותו, ולא שיחיר על ידי זה דברים האסורים עליו, כמו שאמרו: "איזה הוא
 אסר כיום שחרב בית המקדש כיום שמת בו פלוני הרי עלי שלא
 לאכל בשר ושלא לשתות יין." ועוד: "יכול נשבע לאכל נבלות וטרפות
 20 ושקצים ורמשים קורא אני עליו ככל היוצא מפיו יעשה חלמו לומ לאסר
 אסר על נפשו לאסור אתה מותר ולא להתיר את האסור." ואסור
 לנזר על אחרים כמו שנזר עליו, כמו שאמרו: "על נפשו הוא אוסר ואינו אוסר
 על אחרים." ואם נשבע על דבר שאי אפשר לעשותו, צריכים להלקותו על שנשבע

21 b

על דבר שאין לאל ידו לעשותו, כמו שאמרו: "אמ ר' יוחנן נשבע שבועה שלא יישן שלשה
 ימים מלקין אותו ויישן לאלתר." ואם נדר שלא יאכל דבר פלוני משום שהוא מזיק לו, ולא
 היה מזיק לו, אלא מועיל לו, נדרו בטל, כמו שאמרו: "קונם בצל שני טועם שהבצל
 רע ללב אמרו לו והלא כופרי יפה ללב הותר בכופרי ולא בכופרי בלבד
 5 הותר אילא בכל הבצלים מעשה היה והתירו ר' מאיר בכל הבצלים."
 ואם נדר שלא ידור בבית כמו שהוא, אסור לו לדור בו וגם בעליה
 אשר עליו, כמו שאמרו: "הנודר מן הבית מותר בעליה דברי ר' מאיר וחכמי
 אומ' עליה בכלל בית הנודר מן העליה מותר בבית." ואם נדר שלא
 יאכל בשר אסור גם בכבד ובטחול ובקרבים, כמו שאמרו: "הנודר
 10 מן הבשר אסור בכל מיני בשר ואסור בראש וברגלים ובקנה ובכבד
 מפני שהן קרבים ואסור בעופות ומותר בדגים וחנבים." ואם נדר שלא
 יאכל צלי ולא כון במחשבתו לכל צלי, אסור בבשר צלוי, אבל אם
 אמר "מה שניצלה," אסור בכל צלי. וכיוצא בזה האמירה בדבר המליח, אינו אסור
 אילא במליח של דג, אבל אם אמר "כל מה שימלח" אסור
 15 בכל מליח. והטעם שבשבילו נאסר האיש הזה בכל דבר, משום שהאיש הזה היה
 משתמש הרבה בדבר שהוא רוצה לאסר על עצמו בנדר, כמו שאמרו: "הנודר מן הצלי
 אין אסור

אילא בצלי של בשר דב ר' יהודה צלי שני טועם אסור בכל הצליון מן המליח
 אין אסור אילא מן המליח של דג מליח שני טועם אסור בכל המלוחין. ודבריו "לא
 יחל דברו" כונתם שצריך לעמד בדברו עד כמה שאפשר בזמן המיחד אם
 20 קבע לו זמן; ואם סתם דבריו צריך להקדים ולעשותו כדי שלא יעצרנו שום
 מעצור. וכבר בארנו זה בספר הראשון, וענין "לא יחל דברו" יכלל גם כן
 הפרה; ואסור לנודר להפר נדרו, אף על פי שהוא בעצמו חכם, אבל איש
 אחר יפרנו, כמו שאמרו: "לא יחל דברו שלא יעשה דבריו חולין הרי שהיה חכם לא יפר

22 a

לעצמו והרין נותן אם מפר לאחרים לא יפר לעצמו תלם לזמ לא
 יחל דברו. ועוד: "הוא אינו מיחל אבל אחרים מיחלין לו." ואמרו עוד:
 "דבריו אינו מיחל אבל מיחל חפצי שמים." ודבריו "ככל היוצא מפיו יעשה"
 כונתם שחייב לעשות נדרו, אם מותר לנדר כמוהו ואפשר לעשותו.
 5 **המצוה השלישית ממנו.** נדרי הנשים הבוגרות ושאין בוגרות, והן חמשה מינים.
 נערה בבית אביה שלא בגרה ושלא נשאה. נערה שגתארה.
 אשה שפנסקה לבעלה. אלמנה וגרושה.
 הראשונה מהן. כל אשה שנדרה נדר או אסרה אסר בבית
 אביה בעודה נערה, ואביה שמע והחריש לה, מצוה שכל
 נדריה ואסריה שנדרה ושאסרה על נפשה יקומו. אבל אם
 10 הניא אותה ביום שמעו זה, כל נדריה ואסריה לא יקומו וי
 יסלח לה, כי הניא אביה אותה, כמו שכתוב: "ואשה כי תדר נדר ל' וג' ושמע אביה
 את נד' וג' ואם הניא אביה אות' וג'." והזמן שמותר לנערה לנדר נדר
 שהיא חייבת לעשותו גם אם לא נבדק שכלה, הוא שתים עשרה שנה ויום
 15 אחד ומעלה, ובלבד שאין בשכלה פחת או פגם. ובת עשתי
 עשרה ומטה אין נדרה קים' ואם מלאו לה
 עשתי עשרה שנה, ונדרה, צריכים לבדק את מדת שכלה בכל השנה השתים עשרה;
 אם היה שכלה בריא ושלם יפר אביה נדריה, אם רצה בזה;
 ודוקא כשהביאה שתי שערות שחורות במקום הערוה. ואם החריש לה,

20 יקום נדרה. ואם היתה בעלת דעת קלה, נדרה לא יקום.
ובת דעת שמלאו לה שתיים עשרה שנה ויום אחד ומעלה, שמענה שלא
ידעה לשום מה נדרה בזמן ההוא, ולפיכך לא תקום אותה, החובה עליה
לעשות מה שנדרה, אם יש לאל ידה, ובת עשתי עשרה שנה ומטה

22 b

שאמרה שידעה לשם מי נדרה, אין חובת נדר חלה עליה, כמו שאמרו:
”בת יא שנה ויום אחד נדרה נבדקין בת שתיים עשרה שנה ויום
אחד נדרה קימין ובודקין כל שתיים עשרה בן יב שנה ויום אחד נדרין
נבדקין יג שנה ויום אחד נדרין קימין ובודקין כל שלש עשרה קודם לזמן
5 הזה אף על פי שאמרו יודעין אנן לשם מי נדרנן ולשם מי הקדישנן אין נדריהם
נדרים ואין הקדשן הקדש אחר הזמן הזה אף על פי שאמרו אין אנן
יודעין לשום מי נדרנן ולשום מי הקדישנן נדריהן נדרים והקדישן הקדש.”
וביון שברור ומובן שדברי רבותינו ”בת יב שנה ויום אחד נדרה קימין
ובודקין כל יב” הם דברים שיש לסמך עליהם ואין בהם ספק, מוכח כי ששה
10 החדשים שהזכיר שמואל בדבריו ”אין בין נערות לבגרות אלא ששה חדשים בלבד” מתבונים
אל החצי השני מן השנה השתיים עשרה, וכי הבדיקה במשך השנה השתיים עשרה
על שני אופנים: בחצי הראשון שואלים אותה לשם מה נדרה ולמי הנדר, ובחצי השני
שואלים אותה על הדבר הזה ובודקים אותה בדבר סימני הבגרות, כגון צמיחת
שערות שחורות במקום הערוה, לכל הפחות שתי שערות, כיון שהדבר הזה אפשר
15 בנערות ששנותיהן עשתי עשרה וחצי, כמו שאמרו: ”תינוקת שהביאה שתי שערות חיבת
בכל מצות האמורות בתורה.” ואם הביאה שתי שערות חיבת היא בכל מה שנדרה
אם אפשר לעשותה, אף על פי שאביה לא רצה בזה. אבל אם עדין לא הביאה שתי שערות,
מותר לאביה להפך נדרה במשך השנה השתיים עשרה. ואמרו רבותינו: ”משל משלו
חכמ' באשה פנה בוהל וצמל פנה עודה תינוקת בוהל אילו ימי
20 הנעורים ובזו ובזו אביה זכאי במציאתה ובמעשי ידיה ובהפך נדרה
צמל בזמן שבגרה אין לאביה בה רשות.” והנערות נקראות
גם כן תינוקות מיום שנולדו עד שהביאו שתי שערות במקום הערוה, כמו שאמרו:
”תינוקת בת יום אחד מטמאה בנדה.” ועוד אמרו: ”האב אינו מפר בבגד.” ויש

23 a

סוברים כי ששה החדשים שהזכיר שמואל הם אחרי השנה השתים עשרה ;
ומה שאמרנו לפני זה מספיק להוכיח שנכוחה דעתנו שהזכרנו, ובאור
הנדר והאסר במצוה הזאת וגם במצוה הקודמת שוה,
אין הבדל ביניהן, ואמרו רבותינו: "ואסרה אסר אין אסר אילא
5 שבועה וכן הוא אולם או אסרה אסר על נפשה בשבועה," ודבריו "ושמע
אביה" מוציאים את החרש, כמו שאמרו: "להוציא את החרש," "והחריש לה"—
אף על פי שידע את הנדר שנדרה בתו, ואם חשב שהנודרת היתה אחרת,
ואחר כך הברר לו שזו בתו, הרשות בידו להפך אותו בזמן שנודע לו, כמו
שאמרו: "שאם נדרה בתו ואמר סבור הייתי שהיא אשתי הרי זה יחזור
10 ויפר שז' והחריש לה עד שיהא מתכוין לה," ואם החריש לה שעה אחת,
או הרשה לה, ואחר כך נראה לו לחזור מדעתו, אסור לו לעשות כן, כמו שאמרו: "וקמו כל
נדריה וכל אסר וג' שאם נדרה וקיים וחזר והפך שומע אני יהא מופר מה
אני מקיים וקמו כל נדריה עד שלא יפר או אף משיפר מה אני מקיים
והפך את נדריה עד שלא קיים או אף משיקיים תלמ' לזמ' יקום מגיד
15 הכתוב שכל נדר שאם קיים שעה אחת אינו רשאי להפך," ואם הרשה לה
לעשות נדרה או קים אותה, ואחר כך נראה לו לשנות את דעתו, מותר לו לעשות כן, כמו
שאמרו: "בעי רבה קיים ומופר ליכי בבת אחת מה הוא תא שמע דאמ' רבא כל שאינו בזה
אחר זה אפילו בבת אחת אינו חייב," ואם הרשה לה זמן שעה אחת, הנדר
קים, כמו שאמרו: "נימי קיים ליכי שעה ואני מפיר ליכי לאחר שעה כמאן דאמ'
20 לה קיים ליכי לעולם," וכונת "ואם הניא אביה אותה ביום שמעו וג'" שנער בה
ביום ששמע או שהוגד לו שנדרה; ואם הוגד לו או שמע שנדרה קודם שעבר
היום, והחריש עד אחרי שעבר היום, יקום נדרה, כמו שאמרו: "הפרת נדרים
כל היום כאחצד נדרה בלילי שבת מפר בלילי שבת והיטבת עד שתחשך
נדרה עם חשכה מפר עד שלא תחשך שאם חשכה ולא הפך אין יכול להפך

23 b

תניא הפרת נדרים כל היום ר' יוסי בר יהודה ור' אלעזר בר ר' שמעון אומ' מעת
לעת אומ' ר' שמעון בן פוי אומ' ר' לוי אין הלכה כאותו הווג. והארוסה —
אם הניא אותה הארום ביום ששמע או שהוגד לו, נדריה ואסריה לא
יקומו. ואם החריש לה, יקומו עליה, כמו שכתוב: "ואם היו תהיה לאיש ונ' וג' ושמע
א'ישה ונ' ואם ביום שמוע א' ונ'." והראיה שהאשה הזאת היא ארוסה,
לא נשואה, דבריהם: "ואם היו תהיה לאיש זו ארושה." ואם כנסה כשהיא בוגרת
ועליה נדר שיש לו ממנו צער, והוא מן הנדרים שאסור לו להפרם, ורצה
לגרש אותה בשביל זה, יתן לה את הכסף שהביאה, לא את כתובתה, כמו
שאמרו: "כנסה סתם ונמצאו עליה נדרים תצא שלא בכתובה." וכונת דבריו "ונדריה
עליה" נדר שלא הופר ושלא הוקם, כמו שאמרו: "ונדריה עליה נדרים שלא הוקמו ושלא
הופרו." ומותר לבעל לומר לאשתו בעת שתנשא לו: "אני כבר הפרתי כל נדריך
שנדרת" — והדברים אמורים בנדרים שמותר להפרם, — כמו שאמרו: "וכן הבעל עד שלא
תכנס לרשותו אומ' לה כל נדרים שנדרת עד שלא תכנסי לרשותי הרי הן מופרין
לבשתכנס לרשותו אין יכול להפר." ואם נדרה כשהיא ארוסה, קודם שבגרה, שניהם, האב
והבעל, יפרו אותה, כמו שאמרו: "נערה המארשה אביה ובעלה מפירין נדריה הפר האב ולא הפר
הבעל הפר הבעל ולא הפר האב אינו מופר." ואסור לאב להפר נדר בתו אחרי
שבגרה, כמו שאמרו: "יפה כח הבעל מכח האב שהבעל מפר בבגרה ואין האב מפר
בבגרה." "ושמע אביה ונ' ביום שמע א' ונ' — הדברים הללו שוים לדברים שקדמו "ושמע ונ'
והניא א' ונ', וגם באורם שוה, "וי' יסלח לה" — כונתו שיסלח לה אם עשתה את הנדר אחרי
שידעה שהנו מופר, כמו שאמרו: "הרי שנדרה ובטל לה והלכה ועשתה מזידה מנין שצריכה
סליחה תלמ' לומ' וי' יסלח לה." ודין הנשואה בדבר נדרה והפרו
כדין הארוסה, כמו שכתוב: "ואם בית אישה נדרה ונ' ושמע אביה ונ'
ואם הפר יפר ונ'." וכונת דבריו "כל נדר וכל שבועת אסר ונ'" שהבעל מפר נדרי אשתו כמו
שיפר נדרים של ארוסה בוגרת קודם שנשאת, וכמו שהזכרנו במה שקדם. ודבריו "כל נדר
25 וכל שבועת אסר ונ'" רומזים אל נדרים שיש בהם ענוי נפש או ענוי הגוף.
או שניהם כאחד, כגון שלא תכנס למרחץ ושלא תתקשט ושלא תשמע לו במטה

24 a

ושלא תאכל בשר ופרות ושלל תשרת אותך, וכיוצא בזה, דברים שיש בעוונתם עניו
 נפש או עניו הגוף, כמו שאמרו: "ואילו נדרים שהוא מפר נדרים שיש בהן עניו נפש
 אם ארחץ אם לא ארחץ אם אתקשט ואם לא אתקשט." ואמרו: "אין לי אילא דברים
 שיש בהן עניו נפש דברים שבינו לבניה מנין תלמו לומ' אלה החקים אשר
 5 צוה יי' את משה בין איש לאשתו." והתוספתא אומרת: "כל שיש בו עניו נפש
 בין בינו לבניה ובין בינה לבין אחרים יפר דבר שאין בו עניו נפש בינו לבניה
 יפר בינו לבין אחרים לא יפר כאיזנר קונם שני טועם לפי אבה ולפי אבך לפ
 אחיך ולפי אחי שאני מטילה לבקרך אין יכול להפר מפני שבינה לבין אחרים
 שלא אכחול ושלל אתקשט ושלל אישמש לך מטתי יפר מפני שבינו לבניה
 10 שלא אמווג לך את הכוס שלא אדיח לך את רגלך שלא אציע לך את
 המטה אין צריך להפר וכופה על כרחא רבן גמליאל אומ' יפר משום שנ' לא יחל
 דברו." ואם נדרה שלא תאכל פרות מדינה פלונית, נדרה קים,
 מפני שתוכל לאכל פרות מדינה אחרת; וכן אם נדרה שלא תאכל את המאכלים
 שימכר פלוני, משום שתיכל לקנות מאחר. ואם המין ההוא לא ימצא אלא המוכר
 15 ההוא, מותר להפר, כמו שאמרו: "אילו הן נדרי עניו נפש אמרה קונם פרות העולם עלי הרי זה
 יפר פרות המדינה זו עלי יביא לה פרות ממדינה אחרת פרות חנוני זה עלי אינו יכול להפר
 אם לא היתה פרנסתו אילא ממנו הרי זה יפר." ואם נדרה שלא תאכל
 דבר אלא מה שבעלה מאכיל אותה, והיה עני, צריכים לקים נדרה, משום שתוכל
 לאכל דברים המותרים לעניים, כמו שאמרו: "קונם שני נהנה לבריות אין
 20 יכול להפר ויכולה היא להנות בלקט ובשכחה ובפיאה." ואם בעל או אב
 לא ידע שיי' יתברך התיר לו להפר נדר אשתו ובתו, ואחר כך נודע לו
 הדבר הזה, יכול להפר ביום שנודע לו; ואם שמע אותה נודרת ולא ידע
 שזה נדר, ואחר כך נודע לו הדבר, יכול להפר ביום הַדָּע לו, כמו שאמרו:
 "יודע אני שיש נדרים אבל איני יודע שיש מפירים יפר יודע אני שיש מפירים
 25 אבל איני יודע שזה נדר ר' מאיר אומ' לא יפר וחכמ' אומ' יפר." ואם נדרה
 שלא תאכל דבר מהדברים במשך חדש ימים, למשל, והתיר לה שבוע אחד,

24 b

הפר על ידי זה את נדרה, כמו שאמרו: "ואם הפר יפר אותם ולא מקצתם." ואם נדרה
שלא תאכל שני מיני מאכל, והתיר לה לאכל אחד מהם, גם המין השני מותר לה.
ואם קים את נדרה באחד מהם יקום גם במין השני, אם אסרה אותם עליה
כאחד, כמו שאמרו: "נדרה מן התאנים ומן הענבים הפר לה הבעל לתאנים ולא לענבים
5 לענבים ולא לתאנים כלו מופר קיים לה לתאנים ולא לענבים לענבים ולא לתאנים כלו
קיים אימתי בזמן שהוא נדר אחד אבל אם אמרה תאנה שני טועמת ועוד ענבה
ונשאל לחכם והתיר לה לתאנים ולא לענבים לענבים ולא לתאנים אסר לה לתאנים
ולא לענבים לענבים ולא לתאנים הפר לה בעלה לתאנים ולא לענבים לענבים
ולא לתאנים קיים לה לתאנים ולא לענבים לענבים ולא לתאנים הקיום במקומו
10 וההפר במקומו." ועוד אמרו: "נדר שהותר מקצתו הותר כלו." ואיש שרצה
להפר נדרי בתו, ונדרה אשתו, וסבר שזו היא בתו, והפר לה, הנדר קים,
וצריך לחזור ולהפר נדר אשתו, אם רצה, והוא הדין אם רצה
להפר נדר אשתו, ובתו היתה הנודרת, כמו שאמרו: "נדרה אשתו סבור שנדרה
בתו נדרה בתו סבר שנדרה אשתו נדרה בניור סבור שנדרה בקרבן
נדרה בקרבן כסבור שנדרה בניור נדרה מן התאנים סבור מן דענבים נדרה מן הענבים
15 סבור שנדרה מן התאנים הרי זה יחזור ויפר." ואם שמע פיום השבת שנדרה,
צריך להפר נדרה במלים שהנן שונות מאלה שישתמש בהן לבטל נדר
בימות החול; למשל, יאמר לה: "אכלי מן הדבר הזה שנדרת לבלי אכל
ממנו." ובתנאי שיפר את נדרה בלבד, וזה הוא כאלו אמר: "אני כבר
20 הפרתי נדרך," כמו שאמרו: "מפירין נדרים בשבת לא יאמר אדם לאשתו
בשבת מופר ליכי מבוטל ליכי כדרך שאומר לה בחול אילא אומר לה טלי אכלי
טלי שתי הרי זה נדר בטל ובטל מאליו אמר יוחנן וצריך שיבטל בלבד,"
ורבותינו שמו הבדל בין המלים שבהן יפר הבעל שבועות אשתו
ונדרה ובין המלים שבהן יפר החכם, ואמרו: "אמר יוחנן חכם
25 שאמר בלשון בעל ובעל שאמר בלשון חכם לא אמר ולא כלום בעל אומר מופר ליכי
מבוטל ליכי וחכם אומר שרי ליכי אבל איפכה לא בעל מפר ואין חכם מפר
חכם מתיר ואין בעל מתיר." ואלמנה ונדרשה — כל

25 a

אשר אסרה על נפשה יקום עליה, כמו שכתוב: "ונדר אלמנה וגרושה וז". ואם היו בעולות בעל, וכבר כנסו, חיבות הן לקים את כל נדריהן ואסריהן, כמו שאמרו: "ונדר אלמנה וגרושה מן הנשואין ולא מן האירושין". ואם אלמנה או גרושה מן הנשואין נדרה נדר לאחר שיעברו שלשים יום, וקודם שעבר הזמן 5 נשאת וכנסה, אין לבעלה להפר נדרה, כמו שאמרו: "ונדר אלמנה וגרושה יקו עליה כאיזער אמרה הריני נזירה לאחר שלשים יום אף על פי שנשאת בתוך שלשים יום אינו יכול להפר." ואם אמרה לבעלה נדרתי שאעשה כזה וכוה לאחר שלשים יום מן היום הזה, והפר לה בעלה, ולאחר כך נתארמלה או נתגרשה, ההפר במקומו עומד, כמו שאמרו: "נדרה והיא ברשות הבעל והפר לה ואמרה הריני נזירה לאחר שלשים יום אף על פי שנתארמלה או שנתגרשה בתוך שלשים יום הרי זה מופר נדרה בו 10 ביום ונתגרשה בו ביום אינו יכול להפר זה הכלל כל שיצאה לרשות עצמה שעה אחת אינו יכול להפר." ואם היה לאלמנה יבם אחד יוכל להפר נדריה ואסריה, אבל לא כשהיו לה שני יבמים, כמו שאמרו: "שומרת יבם בין יבם אחד ובין שני יבמין ר' אליעזר אומר יפר ור' יהושע אומר לאחד ולא לשנים ר' עקיבא אומר לא לאחר ולא לשנים." והלכה בזה 15 כר' יהושע. נשלם באורנו של החלק השלישי הכולל עשתי עשרה מצות שנזכרו למעלה.

הספר החמישי מן המצות בדבר טמאות מיחדות שחבר ראש כלה חפץ בן

יצליח בדבר משא ומגע בפגרי בהמות מיחדות, וכיצא בזה, כולל תשע מצות עשה הנוהגות בכל זמן ומקום. המצוה הראשונה ממנו. 20 מי שנגע בנבלות הבהמות והחיות הטמאות צריך להיות טמא עד הערב. ואם נשא אותן יטמא הוא ובגדיו. ושניהם יהיו בטמאתם אחרי הטבילה והכבוס עד הערב, כמו שכתוב: "ולאלה תטמאו כל הנוגע וז' וכל הנושא מנבלתם וז' לכל הבהמה וז' וכל הולך על כפיו וז' והנושא את נבל וז'." ודבריו "כל הנוגע וז'" הם כפשוטם, כונתם שיטמא הנוף הנוגע בהם, ולא הדבר אשר עליו, כגון בגדים, וכמו שאמרו: "אין הנוגע מטמא בגדים." והנוגע בחלק מן 25

25 b

הרבר או בכלו שוים בתורת טמאה, והחלק של הנבלות הללו על שלשה אופנים, הראשון מהם העצמות והגידים והקרנים והטלפים, וכיוצא בהם. אם היו ערומים, בלי בשר, הנוגע בהם לא יטמא בתורת נבלה, וכן העורות, חוץ מעור החזיר ועור דבשת של גמל הרך ועור של ראש עגל הרך ועור הפרסה ועור 5 הערוה ועור השליל ועור שתחת האליה — והעורות הללו מטמאים כבשרם; ואם עברו אינם מטמאים. ועור האדם יטמא בין שלא עבר ובין שעבר, כמו שאמרו: "בבהמה העור והרוטב

והקופה והאליל והעצמות והגידים והקרנים והטלפים מצטרפין לטמא טמאת אוכלין אבל לא טמאת נבלה." ועוד: "ואלו שעורותיהן כבשרן עור האדם ועור החזיר של ישוב ר' יוסי אומ' אף עור חזיר של בר עור חטארת של גמל הרך עור הפרסות ועור בית הבשת ועור השליל עור שתחת האליה וכלן שעברן או שהלך 10 בהן כדי עבדה טהורים חוץ מעור האדם." החלק השני בשר ששעורו אינו פחות מכזית בינוני ומעלה, וזה יטמא את הנוגע בו, כמו שאמרו: "כזית מן הנבלה." החלק השלישי אבר ששעורו פחות מכזית ומעלה שיש בו בשר ועצמות וגידים מרבקים, וזה יטמא את הנוגע בו, כמו שאמרו: "אבר כבירתו בשר גידים 15 ועצמות." ועוד: "האברים אין להם שעור אפילו פחות מכזית מן המת ופחות מכזית מן הנבלה ופחות מכעדשה מן השרץ מטמאין בטמאתן." וכל הנבלה או חלק ממנה או כל אחד מהאברים המטמאים, אינם מטמאים את הנוגע בהם כשהם יבשים, אלא כשהם לחים, או כשאפשר להרטיבם במים פושרים וישובו לכמות שהיו בראשונה בזמן עשרים וארבע שעות, כמו שאמרו: "דם 20 הנדה ובשר המת מטמאין לחים ומטמאין יבשים אבל הזוב והנועי והרוק והשרץ והנבלה ושבת זרע מטמאין לחין ואין מטמאין יבשים ואם יכולים לשרות ולחזות לכמות שהיו מטמאין לחין ומטמאין יבשים וכמה היא שריתן בפושרים מעת לעת." ועוד: "רבן שמעון בן גמליאל אומ' פושרין צריכין שיהיו פושרין מעת לעת." ודבריו "וכל הנושא מנב' ונ' כונתם שהנושא את הנבלות הללו יטמא הוא והבגדים שעליו, אין הברל בין שלא היה דבר חוצץ בינו לבין הנבלה ובין 25 שהיה דבר חוצץ, וגם רבותינו אמרו: "מלמד שהנושא מטמא בגדים." והנבלות המטמאות בין של ישוב

26 a

ובין של בר ובין אלה שיש בהן סימני טהרה ובין שיש בהן סימני טמאה, כלן שוות בתורת טמאה, כמו שאמר הכתוב: "לכל הבהמה וז", ודבריו "וכל הולך על

כפיו" יכללו הבהמות ההולכות על כפיהן כגון הקוף והקפוד

וחלדת הסנאין ואדני השדה וכלב המים, כמו שאמרו: "כל הולך על כפיו זה הקוף כל

5 הולך להביא את הקפוד וחלדת הסנאין ואדני השדה וכלב המים." ובכלל דבריו

"בכל החיה" נכלל גם הפיל, כמו שאמרו: "בכל החיה להביא את הפיל." ובדבריו

"כל הנוגע בהם יטמא" ירמזו אל אדם וכלים, כמו שאמרו: "כל הנוגע בהם יטמא

בין אדם ובין כלים." ואם הנבלות הללו היו על כלי מלאכה או כלי בית ותחת הכלים

הללו היו כלי בית או כלי מלאכה אחרים או אכל ומשקה אינו נטמא אלא

10 הנוגע בנבלה, כמו שאמרו: "לכם הם מטמאין אינן מטמאין לא

אוכלים ולא משקים ולא כלים במשא." והבאורים ששמו קדמונינו לדבר הזה

יארכו, ואנחנו נקצרים בשביל אריכותם. ודבריו "וטמא עד הערב" מצריכים אותו

להיות כך כדי שלא יגע בקדש, לא בזולתו מן הדברים הכלליים, כמו שאמרו: "הא כאיזוד

טהור לחולין מבעוד יום ולתרומה משתחשך." ונבלות בעלי החיים השטים במים, הדומות

15 לנבלות חיות המדבר והישוב המטמאות, אינן מטמאות, חוץ מנבלת החיה הנקראת כלב

המים, כמו שאמרו: "כל שבים טהור חוץ מכלב המים מפני שהוא פורה מן היבוש"

המצוה השניה ממנו. מי שנגע בנבלות שרצים,

שמנה בעלי החיים, שהם החלד והעכבר והצב ומיניו והאנקה והכה והלטאה

והחמט והתנשמת, מצוה להיות טמא עד הערב,

20 כמו שכתוב: "זה לכם הטמא בש וז והאנקה והכה וז אלה הטמאים לכם וז,"

אחרי שהמלה "שרץ" כללה את כל הסוג שב והזכיר מינים אחדים כגון החלד וז.

וכל חלק מחלקי הבשר של השרצים הללו כשהוא נפרד, מטמא בכל מה

שיטמא כלו, והשעור בזה כל מה שמדתו אינה פחותה מעדישה ומעלה,

כמו שאמרו: "עדישה מן השרץ." וכל מה שהוא פחות מן השעור הזה ויש בו

25 בשר וגידים ועצמות מטמא ככל הנבלה כלה, אין הבדל בזה בין שפרש מן השרץ

26 b

והשרץ חי ובין שהוא מת, כמו שאמרו: "יכול הבשר הפורש מן החי יטמא חלמ לומ
במותם מה מיתה שאין לה חילופים אף אבר מן החי שאין לה חילופים מה
השרץ בשר גידים ועצמות אף אבר מן החי כבריתו בשר וגידים ועצמות."
5 ואמרו: "אברים אין להם שיעור אפילו פחות מכזית מן המת פחות
מכזית מן הנבלה ופחות מכערשה מן השרץ מטמאין בטמאתן."
ובדבר הדם אמרו בבאדם אותו: "זה לכם הטמא שיטמא כבשרו."
ונזכיר את מיני הדם במצות וכל דם לא תאכלו בספר שאחרי הספר
הזה אם ירצה השם. ובדבר העצמות, אלו שאין עליהן בשר, וכן
הצפרנים והשער, אינן מטמאין, כמו שאמרו: "מנבלתם לא מן העצמות ולא מן
10 השנים ולא מן הצפרנים ולא מן השער שלהם." ועור האנקה והכח
והלטאה והחמט והתנשמת מטמא כשהוא בלתי מעבד — אבל לא
כשהוא מעבד — כמו שחטמא הנבלה, כמו שאמרה המשנה: "ואילו שעורותיהן כבשרן
עור האנקה והכוח והלטאה והחמט וי יהודה אומ' הלטאה כחלדה וכלן שעבדן
או שהולך בהן כדי עבודה טהורין חוץ מעור האדם וי יצחק בן נורי אומ'
15 שמנה שרצים יש להן עורות." והחלמוד אומ': "תנו רבנן הטמאים לרבות
עורותיהן כבשרן יכול כולם חלמ לומ' אלה והא אלהי כח אומ'
ו למיניהו הפסיק הענין וניתו התנשמת אומ' וי שמואל בר יצחק רב תיני
התנשמת." והיבשה מנבלות השרצים אינה מטמאה, אבל אם נפלה
במים פושרים עשרים וארבע שעות וחזרה ללחותה הקודמת, מטמאה, והראיה
20 לזה כבר הזכרנו במצוה שלפני המצוה הזאת בעת שהזכרנו ארבע נבלות בהמה וחיה.
ואם יבשו מקצת החלקים אף על פי שהם מדבקים באחרים שעדין לא יבשו; וכן אם
נשרפו מקצת החלקים ומקצתם לא נשרפו; החלק שלא יבש ושלא נשרף מטמא,
אבל לא החלק שיבש ונשרף מן הנבלה, כמו שאמרו: "אמ' וי שמעון בן לקיש שרץ
שיבש ושלדו קימת טמא והא אנן תנן מטמאין לחין ואין מטמאין
25 יבשים אמ' וי זורא לא קשיא הא בכולן הא במקצת." ועוד: "אמ' וי שמעון בן לקיש
שרץ שנשרף ושלדו קימת טמא מוחיבי מצאו שרוף על גבי זיתים וכן

27 a

המטלות המהוהה טהורה שכל הטמאות בשעת מציאתן אם ר' זירא לא קשיא הא בכולן הא במקצתן. ואם העכבר הנוצר מן העפר כבר נעשה חציו בשר ועור, ועל הנשאר עלה כסוי שנרבק בעור הבשר, וכבר יש בו תנועה, הריהו מטמא את הנוגע בו, כמו שאמרו: "עכבר שחציו בשר וחציו אדמה הנוגע בבשר טמא ובאדמה טהור אם ר' יהושע בן לוי והוא שהשריץ על פני כלו איכא דמתני לה אסיפא ר' יהודה אולא אף הנוגע באדמה שכנגד הבשר טמא ואם ר' יהושע בן לוי והוא שהשריץ על פני כלו." ובדבריו "על הארץ" רוצה לומר בעלי החיים שישנם על הארץ, ולא אלו שישנם במים, כמו שאמרו: "אף אביא עכבר שבים ששמו עכבר חלמ' לז' על הארץ להוציא את שבים." ואמרו: "תנו רבנן כל שברא הקב"ה ביבשה ברא כנגדו בים חוץ מן החלדה." ובדבריו "הצב למינהו" ענינם מיני הצב כגון הערוד וכן הנפילים והסלמנדרא, כמו שאמרו: "הצב למינהו לרבות מיניו של צב כגון ערוד וכן הנפילים וסמנדרא." ובדבריו "כל הנוגע בהם יט'" מצריכים על הנוגע בהם כשהם מתיים טמאת נופ, לא טמאת הבגדים שעליו. וגם רבותינו אמרו: "אין השרץ מטמא במשא." **המצוה השלישית ממנו.** כלי בית או כלי מלאכה שנפל עליו אחד משמנה הישרצים הללו לאחר מותו צריך להיות טמא, ויטבל במים; וישאר טמא עד הערב; ואחר כך יטהר, כמו שכתוב: "וכל אשר יפל עליו מהם במתם יטמא מכל כלי עץ וז." אחרי שפרטה המצוה הזאת ואמרה "כלי עץ ובגד ועור ושק" חזרה ורבתה כל הכלים שמשתמשים בהם, ואמרה "כל כלי אשר יעשה בו מלאכה בהם," משום שענין דבריו "אשר יעשה מלאכה בהם" כוננו כלים שנגמרו, בעלי מדות קבועות, שאינם חסרים בנופם ושלמות מלאכתם, וראויים הם לדבר שנעשו בשבילו, כמו שאמרו: "כלי עץ מאימתי מקבלין טומאה המטה והערסה משישופם בעור הדג גמר שלא לשוף טמאים ר' יהודה אולא המטה משיסרנ בה שלשה בתים הסלין של עץ משיחסום ויקנב ושל תמרה אף על פי שלא קינב מבפנים טמא שכן מקימין כלכלה משיחסום ויקנב ויגמר

27 b

את התלויה בית הלגנין ובית הכוסות אף על פי שלא קינב מבפנים
 טמא שכן מקימין הקנונים קטנים והקלתות משיחוסם ויקנב
 הקנונים הגדולים והסיגין הגדולים משיעשה שני דורים לרחב שלהן ים
 נפה וכברה וכף של מאזנים משיעשה דור אחד לרחב שלהן הקופה
 5 משיעשה שתי צפירות לרחב שלה והערק משיעשה בו צפירה אחת
 כלי עור מאימתי מקבלין טומאה התרמל משיחוסם ויקנב ויעשה את
 קיחותיו ור' יהודה אומ' משיעשה את אוניו סקורטיה משיחוסם ויקנב
 ויעשה את ציצותיה ור' יהודה אומ' משיעשה את טבעותיה קיטבלה
 משיחוסם ויקנב ור' יהודה אומ' משיעשה את קיחותיה הכר והכסת
 10 של עור משיחוסם ויקנב ר' יהודה אומ' משיחוסם וישיר בה פחות
 מחמישה טפחים. ועוד אמרו: "כלי עץ מאימתי מקבל טמאה הסנדל
 משיקמע והמנעל משיגוב על האמם ואם עתיד לכרכם עד שיכרכם
 ולשרטט עד שישרטט אסקרטיא עד שיטפטף וקיטבליא משישרטט
 עור העריסה שהוא עתיד לעשות לו טבור עד שיעשה לו טבור."
 15 **פרוש.** משיחוסם ויקנב: מעת שיגמר מלאכת שפתיו ויחתוך מה שנשאר
 מן הקסמים הבולטים ממנו. כלכלה: מין סל. בית הלגנין: תיק של כוסות
 והדומה להן. הקנונים: קערות. והסיגין: קופות גדולות. דורין: פתילות דקות.
 צפירות: פתילות. הערק: מחצלת. התרמל: דומה לשק. קיחותיו: לולאות.
 קיטבליא: מצע של עור. סקורטיא: שלהן עור. משיגוב על האמם: משייבש על
 20 הדפוס. לכרכם: בשישימו עליו כרכם. ישרטט: יציר. ואמרו מאמר אחר כולל:
 "כלי עץ אין מקבלין טמאה עד שתגמר מלאכתן כלי עצם מאימתי מקבלין
 טמאה משתגמר מלאכתן היו מחוסרין בסויין טמאים כלי חרש מאימתי
 מקבלין טמאה משיצרפנו בכבשן והוא גמר מלאכתן." והכלים הם שני
 מינים, אחד מהם שיש לו תוך מחזיק אויר, והשני שיש לו שטח שאינו מחזיק אויר, ואלו
 25 שיש להם תוך, יש מהם המקבלים טמאה, ויש מהם שאינם מקבלים טמאה, ואלו
 שאין להם תוך יש מהם המקבלים טמאה ויש שאינם מקבלים טמאה. ויש המקבלים

28 a

טמאה בין שיש להם תוך ובין שאין להם תוך. ואלו שיש להם תוך ואינם טמאים, כגון כלי הקדש כלם, אין הבדל בין שיש להם תוך ובין שאין להם. וכן כלים שמלאו אותם דברים שהוכנו בשבילם ושאי אפשר לשאת אותם כשהם מלאים, כגון הגדולות שבשדות והתבות הגדולות ובור הספינה ששמים בו

5 מים, וכיוצא בהם. ומהם כלי שאפשר לשאת אותו כשהוא מלא, כגון דבר

שהכינוהו התינוקות לשחק בו, כגון קליפת הלפת והאתרג והדלעת והדומה להם. ואם אחד הדברים הללו יכול להתקיים זמן רב, יטמא, כמו שאמרו:

”כל הכלים שיש להם אחורים ותוך, כגון הכרים והכסתות והשקים

והמרציפין וז.” “כלי הקדש אין להם אחורים ותוך ואין להם בית הצביעה.”

10 ואמרו: ”שירה תבה ומגדל וכוארת הקש וכורת הקנים ובור ספינה

אלכסנדרית אף על פי שיש להם שולים שהן מחזיקין ארבעים סאה בלח

שהן כורים ביבש הרי אילו טהורים ושאר כל הכלים בין מקבלין ובין

שאינן מקבלין טמאה דברי ר' מאיר ר' יהודה אומ' דרדור עגלה

וקסטית מלכים ועריבת העבדן ובור ספינה קטנה וארון אף על פי מקבלין

15 טמאים שאינן עשויים ליטלטל אלא במה שבהן ושאר כל הכלים מקבלין

טהורין ושאינן מקבלין טמאים אין בין דברי ר' מאיר לדברי ר' יהודה אלא

ערבה של בעל הבית.” ואמרו: ”העשה כלים מדבר שהוא של מעמד טמא

מדבר שאינו של מעמד טהור הלפת ואתרג ודלעת יבשה שחקקום

תינוקות למוד בהם את העפר או שהתקינם לכף מאזנים טהורים הרמון

20 והאלון והאנוזים שחקקום תינוקות למוד בהן את העפר או שהתקינם

לכף מאזנים טמאים.” ומהם מכונה שתחת מלבן בצורה מיוחדת,

או ספסל שהתקן להניח עליו את הרגלים, כמו שאמרו: ”חמור שתחת המלבן

והספסלן שתחת הרגלים טהורין כפותין שתחת הרגלים אף על פי שחקקום ומקבלין טהורים ואין

בהן משום קבול.” ועוד אמרו: ”כל המחובר לקרקע הרי הוא כקרקע.” ומהם

25 כלי הנעשה מעור בעל חי הנמצא במים, חוץ מזה שחבר אליו עור או

28 b

דבר אחר המקבל טמאה, בין שחברו בדבק או בחוט, או בדבר אחר.
 אבל כלי הנעשה מעור בעל החי הנקרא כלב המים יטמא אף על שלא
 חבר אליו דבר אחר, כמו שאמרו: "כל שבים טהור חוץ מכלב המים מפני שהוא
 פורה ביבוש דברי ר' עקיבא העושה כלים מן הגדל בים וחבר להם
 5 מן הגדל בארץ ואפילו חוט ואפילו משיחה דבר שמקבל טמאה
 טמא ובלבד שיחברנו בדרך חבורו לטמאה," ומהם כלי הנעשה
 מגללי בקר והדברים החצובים מאבנים, כגון מכונות ומוריגים והדומה להם,
 כמו שאמרו: "שבעת ימים קודם לשרפת הפרה מפרישין את הכהן השורף
 את הפרה מביתו ללשכה שעל פני הבירה צפונה מורחה ולשכת
 10 בית אבן היתה נקראת ולמה נקרא שמה לשכת בית אבן שכל מעשיה
 בכלי גללים ובכלי אבנים ובכלי אדמה מאי טעמא וז' תקינו ליה רבנן
 כלי גללים וכלי אבנים וכלי אדמה דלא מקבלין טמאה כי היכי דלא
 ליזלזלו בה," ומהם קערות עץ שיש להן שפה וכסוי טני שהוכן לשירים
 הנעשה מזהב וכסף ונחשת וברזל וכיוצא בהם מן המתכות, כמי שאמרו:
 15 "הטבלה שיש לה לזיבז בכלי עץ טהורה," ועוד: "כסוי טני של מתכת
 של בעלי בתים רבן גמליאל מטמא וחכמי מטהרין," ומהם כלים
 הנעשים מעצמות העופות; אבל אם חבר להם דבר המקבל טמאה, מקבלים
 הם על ידי זה, כמו שאמרו: "העשה כלים מעצמות העופות טהורים."
 ועוד: "חיבר להם מן הגדל בארץ אפילו חוט אפילו משיחה דבר
 20 שהוא מקבל טמאה טמא," ומהם כלים שהנם בשעת מלאכה שמוש לכלי אחר,
 ויפסקו מלהיות שמוש בשנגמרה המלאכה, כגון הכלי שמכסים בו את הצאה, והחסום,
 והכלי המגן מפני הדבורים, והדומה להם, אינם מקבלים טמאה. אבל אם היה
 הכלי מוכן לכלי אחר שלא יפרדו זה מזה לעולם, יקבל טמאה, כגון כסוי תבה
 וקמטרא וקמרון ותיק של מבחול, והדומה להם, כמו שאמרו: "המלקוט של בקר
 25 והחסום שלו והמדף של דבורים והמנפה הרי אלו טהורים כסוי קפסה טמא כיסוי
 קמטרא טהור כסוי תבה כסוי טני והמכבש של חרש וכסא שתחת

התבה והקמרון שלה והאילונגין של ספר ובית הנגר ובית המנעול ובית המזוזה
ותיק נבלים ותיק כנורות והאמום של גודלי מצנפת והמרכב של זמר ורביעין
של אליה ונגוננות העני וסמוכות המטה וטיפוס של תפילה ואמום של גודלי
מסאות הרי אילו טהורים זה הכלל אם י יוסי כל המשמש משמשין של אדם
5 בשעת מלאכה ושל א בשעת מלאכה טמא וכל שאינו אילא בשעת

מלאכה טהור תיק מכחול ובית הכחול ותיק מכתב ותרינתק והקיטבליא
וסקרטיא ובית החצים ובית הפרגושות הרי אילו טמאים תיק סימפניא
בזמן שהוא נותנו מלמעלה טמא ומצדו טהור תיק חללים י יהודה מטהר
מפני שהוא נותנו מצדו וחפוי האלה בית הלנינין ובית הכוסות אף על פי

10 שיש בו חמשה על חמשה טהור שאינו אילא חפוי ומשום חבורי
כלים טמא. פרוש המלים הקשות כאן. המלקוט של בקר: המכסה את הצאה.
והחסום שלו: מין רסן. המדף של דבורים: כלי המגן מפני הדבורים.
והמנפה: מין רחת. קפסה: תבה שמיניחים בה בגדים. קמטרא: ארון ספרים. מכבש:
מין כסא. קמרון: כסוי ענל. האלנגין: תיק. האמום: דפוס. של גודלי: הטוים. ורביעין:
15 חבלים שחורים. נגוננת: יריעת אהל. תיק: כסוי. תרנתיק: שני כסויים. והמרכב של זמר:
המרכב הוא כלי עשוי מעץ שמשחקים ומזמרים עליו. הפרגושות: מנורות.
מכתב: קולמוס. קיטבליא: מצע של עור. סקורטיא: שלחן עשוי מעור. האלה: שריה.
סמפוניא:

נבל. חלילין: מיני כנור. בית הלנינין: בקבוקים. והכלים שיש להם תוך ומקבלים
טמאה, הם הכלים שאין אחד מהם נכלל במה שהזכרנו והדומה להם
20 שיש להם תוך ואינם מקבלים טמאה; כגון כתנות ומרבדים ושמיכות
וכובע ושטיח וחמת וקדרה וקערה ותבה ושדה ורוד וכיוצא בהם
שיארך להזכיר את מיניהם. ושעור הבגדים התפורים המקבלים
טמאה, השעור היותר פחות הוא מה שיעלה על אחד מצדי הלוכש לשלשה
טפחים ומעלה, כמו שאמרו: "חלוק של קטן י אליעזר אומ' כל שהוא

29 b

וחכמ אומ עד שיהא כשעור ונמדר כפול. ואמרו: "העושה חלוק אם
 יש בו שלשה על שלשה טמא ואם לאו טהור." והטמאה נופלת
 על כל הכלים שהתקנו ושנעשו לשמש אברי הגוף וכיוצא בהם, כגון
 אנפילא ונעל ומכנסים, שהם שרולים, וצעופים, כמו שאמרו: "ואילו נמדדין כפולין
 5 אנפילא ופלניא ומכנסים וכובע וכיס של פונדא ומטלית שטלאה על השפה אם
 פשוטה נמדרת פשוטה ואם כפולה נמדרת כפולה." והכלים שאין להם תוך
 ומקבלין טמאה הם כגון הדפים של הנחתומים שהוכנו למאפה
 הלחם, אבל אלה שהוכנו בבתיים ולא יחדו למלאכת
 הנחתומים אינם מקבלים טמאה אלא אם כן חברו לכלי אחר
 10 או שקשטו בששר או כרכם, והדומה להם, כמו שאמרו: "דף של נחתומין
 שקבעו בכותל ו' אליעזר מטהר וחכמ מטמאים." ועוד: "ארוכות של נחתומין
 טמאות ושל בעלי בתים טהורות סירקן או כרכמן טמאין." ואמרו: "מפני
 מה ארוכות של נחתומין טמאות מפני שהן מיוחדות לכלי של בעלי בתים
 טהורות עד שיחזרום לכלי." ומהם עורות בעלי החיים שאינם חיים
 15 במים שעבדו וגמר ברעתו לעשות מהם כלי, כמו שאמרו: "יכול אפילו עור המצה
 ועור החופה במשמע תלמ לומ אשר יעשה מלאכה בהם יצאו עור
 המצה ועור החופה שלא נעשה בהן מלאכה." וענין דברין "עור המצה" —
 עורות שלא נמלהו ולא הכנסו למלאכת העבוד; "ועור החופה" — עור
 שנמלה בלבד, כמו שאמרו: "אמ' ו' חייה בר אמי משמא דעולא שלשה עורות
 20 הן מצה חופה ודפתרא מצה דלא מליח ולא קמיה ולא עפיין חופה
 דמליח ולא קמיה ולא עפיין." ואמרו: "עורות של בעל הבית מחשבה
 מטמאתן." ומהם מטלית שמדתה שלשה טפחים על שלשה טפחים ומעלה שדרם
 עליה אחד המטמא אותה טמאת מדרס, או שהוכנה לשכב עליה, או ששמים אותה

30 a

על מלוגמא ורמיה, או פחותה משלשה טפחים על שלשה טפחים שהוכנה להשתמש
 בה שמוש מיחד, שמשחמר בה בשביל עבודה דומה לזו, או חתיכה שמדתה

שלשה טפחים על שלשה טפחים ומעלה שננעה במת או האהילה עליו, או שחושבים לתקן בה דבר אחר, או שק שמדרתו ארבעה טפחים על ארבעה טפחים ומעלה, או 5 מצע שמדרתו חמישה טפחים על חמישה טפחים ומעלה או מפין שמדרתו ששה טפחים על ששה טפחים ומעלה שדרס או ישב או שכב עליהם המטמא אותם, או שהאהילו על מת או שננעו בו, וכיוצא בזה מן הדברים המטמאים. ואם לקח טפח על טפח ומעלה מן הדברים הללו שזכרו לעיל, והכינו לשבת עליו, או פחות מטפח שאין משתמשים בו, אף על פי שנפחת יקבל טמאה, כמו שאמרו: "הבגד מטמא משום שלשה על שלשה למדרס 10 ומשום שלש על שלש לטמאת מת השק ארבעה על ארבעה העור חמישה על חמישה מפין ששה על ששה שוין למדרס ולטמא מת." ועוד: "תניא קוצע מכלם ועשה בגד למשכב אין פחות משלשה על שלשה למושב טפח ולאחיזה כל שהוא." ועוד: "ולמעמד כל שהוא." ועוד: 15 "הבגד והשק השק והעור העור והמפין מצטרפין דתנן המקצע מכלן טפח על טפח טמא טפח על טפח למאי חוי אמי ר' שמעון בן לקיש משום ר' ינאי הואיל וראוי להטלית על גבי חמור." ועוד: "אין מטמא אילא המשימש את הצרך." ועוד: "עור שעשאו לתכריך אפילו כל שהוא טמא." ועוד: "שלש על שלש שנמצאת בתוך 20 הבית טמאה שכל הבית מן המוצנע מצאה אחרי הדלת או בסוחה או פיגדירן צרור בה או מחט תחובה בה או שהיתה פקוקה בסל או בקופה טהורה ולעולם אינה טמאה אילא עד שיצניעה לבגד." ועוד: "אמי ר' אבא היה ר' נחמיה מטהר במטלית שאין בה שלש על שלש

30 b

דלא חזיא לא לעניים ולא לעשירים." והלכה כר' נחמיה. ואמרו: "הורו חכמי כר' נחמיה." ועוד: "שלשה על שלשה שעשאה לאספלונית מלוגמא ורמיה טמאה." ועוד: "שלשה על שלשה שנתמעט אף על פי שטהור מן המדרס טמא בכל הטמאות." ועוד: "תניא פחות משלשה על שלשה 5 שהתקינן לפיק בו את המרחץ ולנער בו את הקדרה ולקנח בו את הרחים

בין מוכן ובין שאין מוכן טמא דברי ר' אליעזר ר' יהושע אומ' בין מוכן ובין
 שאין מוכן טהור ר' עקיבא אומ' מוכן טמא שאינו מוכן טהור אמ' עולא
 אמ' רבה בר בר חנה אמ' ר' יוחנן דכולי עלמא הניחה בקופסה דברי הכל
 דעתיה עילוה זרקה לאשפה דברי הכל בטולי בטלה לא נחלקו אילא
 שתלאו בבגדו או הניחו אחורי דלת ור' אליעזר סבר מדלא זרקו לאשפה 10
 דעתיה עילאוייה. ואמרו: "הדר ביה ר' עקיבא לגביה דר' אליעזר." ולבדים
 תורתם כתורת בגד, כמו שאמרו: "ומנין לרבות את הלבדים תלם לזמ' בגד."
 ומהם גם וילונות וקלעי ספינה כשנמצא בהם נגע כשעור
 פול, או שנגעו במת או שהאחילו עליו, כמו שאמרו: "כל הראוי לטמא טמאת
 מת אף על פי שאינו מטמא טמאת מדרס מטמא בנגעים כגון קלע 15
 של ספינה ווילון ושבים של שבכה ומטפחת ספרים ונגנלים." ואם היה
 הבגד וכיוצא בו פחות מן השעור המטמא והשלימו על ידי שחבר אליו
 דבר מקבל טמאה, צריכים לראות, אם היתה טמאת הדבר שחבר חמורה מטמאת
 הדבר שחברו אליו, יטמאו שניהם, כשנמצאה טמאה בשניהם או
 באחד מהם. ואם היתה טמאתו קלה לא יטמא מן הדבר 20
 המטמא אותו כשחברו לו דבר שטמאתו חמורה, כמו שאמרו: "העשה
 שנים מן הבגד ואחד מן השק שלשה מן השק ואחד מן העור ארבעה
 מן העור ואחד מן המפץ טהורה חמשה מן המפץ ואחד מן העור
 ארבעה מן העור ואחד מן השק שלשה מן השק ואחד מן הבגד

31 a

טמא זה הכלל כל שחיבר לו מן החמור ממנו טמא מן הקל ממנו טהור.
 ואם נטמאה ונתמעטה, ועשה ממנה בליים אחרים הראויים למה שהיא היתה
 ראויה כשהיתה במצבה הקודם, תשאר במצב טמאתה זו, כגון חמת
 שנמעטה ועשה ממנה שטיח. אבל אם עשה ממנה כלי אחר שאינו ראוי 5
 למה שהיא היתה ראויה מקודם, כגון מצע והדומה לו, טהורה, כמו שאמרו: "חמת
 שעשאה שטיח ושטיח שעשאו חמת טהור חמת שעשאה תרמל ותרמל שעשאו חמת כר
 שעשאו סדין וסדין שעשאו כר כסת שעשאו מטפחת ומטפחת

שעשאה כסת טמא זה הכלל כל ששינהו לשמו טמא לשם אחר
 טהור. ואמרו רבותינו בדבר נפילת הטמאה במחשבה ובכונה: "כל הכלים
 10 יורדין לידי טמאתן במחשבה ואין עולין מידי טמאתן אילא בשינוי
 מעשה והמעשה מבטל מידי מעשה ומידי מחשבה והמחשבה
 אינה מבטלת לא מיד מעשה ולא מיד מחשבה." הכונה של באור
 ההלכה הזאת היא: הנה כל הכלים נטמאים במחשבה ודין טמאה לא יעלה מהם
 כל זמן שהם בצורתם; אלא כשישנה אותם ממה שהיו בתחלה,
 15 ויעביר אותם מן צורתם לצורה אחרת, יפל מהם דין אותה
 הצורה וגם המחשבה שחשב בהם. והמחשבה לשנותם ולעשותם
 לדבר שאינו כלי לא יסלק מהם את הטמאה, כל זמן שהם כלים; ולא מחשבה
 אחרת שקדמה לה. ענין "כל הכלים יורדין לידי טמאתן
 במחשבה" הוא: כשהחליט בעל כלים מיוחדים לעשות מהם
 20 כלים או לשנות אותם ולעשותם לדבר אחר, אם לא שנה אותם מצורתם
 יקבלו טמאה כשננע בהם דבר שיטמא אותם;
 אבל אם בעל הכלים היה אמן שיעשה אותם למכרם אין מחשבתו פועלת
 כלום על הדברים שחשב למכר; כמו שאמרו: "עורות

31 b

של בעל הבית מחשבה מטמאתן ושל עבדן אין
 מחשבה מטמאתן של גנב מחשבה מטמאתן
 ושל גזלן אין מחשבה מטמאתן מפני שלא נתיאשו הבעלים.
 ואמרו: "ואילו עורות טמאות מדרס עור שחשב עליו לשטוח עור
 5 סקריטיא עור קטבליא עור חמור עור החמר עור הבתן עור הכתף עור הרופא
 עור הערסה עור הלב של קטן עור הכר ועור הכסת מדרס עור הסרוק
 ועור הסרוק ו' אליעזר אומ' מדרס וחכמ' אומ' טמא מת." ואמרו
 בדבר הטמאות העוברות מכלי אל כלי: "אמ' מר לא תצא בהמה
 לא בזוג שבצוארה ולא בזוג שבכסותה ולא בחותם שבצוארה ולא
 10 בחותם שבכסותה וזה וזה אין מקבלין טומאה וזוג דבהמה לא מקבל

טמאה והתניא זוג של בהמה טמא ושל דלת טהור של דלת ועשאו
 לבהמה טמא של בהמה ועשאו לדלת אף על פי שקבעו בדלת וחברו
 במסמרים טמא שכל הכלים יורדין לידי טמאתן במחשבה ואין עולין
 מידי טמאתן אילא בשינוי מעשה לא קשיא הא דאית ליה עינבול הא
 15 דלית ליה עינבול. ובדבר הכלים שאין להם תוך ואינם מקבלים טמאה: מהם
 כלי עץ שמשתמשים בהם שמוש קרוב ושמוש רחוק. אלו שמשתמשים בהם
 שמוש קרוב, אינם מקבלים טמאה, כגון סלמות וקולבים וכסויים מיוחדים, וגם מנורות מיוחדות;
 ואלו המשמשים שמוש רחוק טמאים. השמוש הקרוב הוא כמשתמשים בנופן,
 והרחוק בשימוש כלים אחרים, כגון מנורות ומפות, וכיוצא בהם, משום שאלה
 20 משמשות את האדם ואת הכלים שמשתמשים בהם לאכל את הדברים הנעשים מן המטעמים,
 כגון קערות ופנכות, וכוסות וקערות קטנות, וכיוצא בהן. וכל מה שהוא מן הסוג הזה יטמא
 כשקרה בו דבר המטמא אותו, כמו שאמרו: "העשוי לשמש את האדם כגון הסולם וכגון
 הקולב ומנורה ואנחותה טהורין העשוי לשמש את האדם ואת משמשי האדם

32 a

כגון השלחן והטבלה והדולפקי טמאים. ואמרו: "כלי עץ יכול הסלם
 והקולב והנחותה והמנורה תלמ לזמ מכל כלי עץ ולא כל כלי עץ או יכול
 שאני מוציא את השלחן ואת הטבלה ואת הדולפקי תלמ לזמ כל כלי עץ ריבה
 מה ראית לרבות את אלו ולהוציא את אלו אחר שריבה הכתוב מיעט תלמ
 5 לזמ שק עץ מה שק מיוחד שהוא משמש את האדם ואת משמשי
 האדם אף אני ארבה את השלחן ואת הטבלה ודולפקי שהן משמשין את
 האדם ואת משמשי האדם ומוציא את הסלם שהוא משמש את האדם
 ואינו משמש את משמשי האדם והקולב והנחותה והמנורה שהן משמשין
 את משמשי אדם ואינן משמשין את האדם." ומהם מטלית שמדתה
 10 שלשה טפחים על שלשה טפחים שהשליכוה לאשפה, וכיוצא בה. ומהם שלש
 אצבעות על שלש אצבעות על רטיה או מלוגמא, כמו שאמרו: "שלשה על שלשה שהשליכה
 לאשפה טהורה החזירה טמאה לעולם השלכתה מטהרתה והחזרתה
 מטמאתה." ועוד: "שלש על שלש שעשאה לאספלונית מלוגמה ורטיה

טהורה." ומהם מטפחות, בין שאינן מצוירות ובין מצוירות; אלא אם כן נמצא
 15 בהן ננע או ננעו במת או האהילו עליו, כמו שאמרו: "מטפחות הספרים בין
 מצוירות ובין שאינן מצוירות טמאות דברי בית שמאי ובית הלל אומ' מצוירות
 טהורות ושאיןן מצוירות טמאות רבן גמליאל אומ' אלו ואלו טהורות."
 והלכה כרבן גמליאל, כמו שאמרו: "ר' יוסי ור' שמעון אומ' נראין דברי רבן
 גמליאל במטפחת ספרים וכדבריו אנו מורים." ומהם הדלת והנגר והמנעול והפותה
 20 שתחת הציר והציר והקורה והצנור כשהם קבועים
 בבנין, כמו שאמרו: "כל כלי מתכות שיש לו שם בפני עצמו טמא חוץ מן הדלת
 והנגר והמנעול והפותה שתחת הציר והציר והקורה והצנור שנעשו
 בקרקע." ויתר הכלים שנזכרו למעלה הנעשים מצמר ופשתים, וכיוצא בו, ואם היה מטוה

CORRECTIONS IN ARABIC TEXT OF ḤEFEṢ

Fol. 7 a, l. 3. לאחכם should read אלחכם

Fol. 28 a, l. 1. יכן should read יכי

TO *JQR.*, VOL. V, PP. 443-52.

I AM greatly obliged to Dr. Davidson for his scholarly remarks on *JQR.*, IV, 621-34, and I would like to add a few words in reply.

(1) First of all it is proper to answer the question. How many Abraham Hakohen are known from the Genizah? As far as I know, there are five different Abraham Hakohen. We can give the following list of them :

A. Abraham Hakohen in Schechter's *Saadyana*, p. 67, ll. 5 ff., and MS. Brit. Museum Or. 5554, B. No. 20, where we read :

ישראל הכהן יברכו חי וקיים
ואברהם הכהן משרתך יאויים,
וטובתו תהא שפעת כמו שפערים
ולבן דורו עמרם הכהנים מבתריה

B. Abraham ben Amram Hakohen, see Schechter, *loc. cit.*, p. 64, 12.

C. Abraham ben Jachin Hakohen, Schechter, *loc. cit.*, p. 41.

D. Abraham ben Joseph Hakohen in MS. Adler, No. 223 ; see *ZDMG.*, 67, 637, and *JQR.*, IV, 623 : תאליף ר' אברהם הכהן : [חבר ?] בחבורת סנהדרין הנדולה בן מר' ור' יוסף ראש ישיבת ארץ ישראל.

E. Abraham Hakohen ben Isaac. I found the name in T-S. 18 J. 14. 5 (the letter is written by the Gaon Solomon, and bears the signature . . . (שלמה הנרכה לישועת אל . . .), and T-S. 13 J. 19. 3 (there is signed [הצ'עיר] ראש ישיבת גאון יעקב); T-S. 13 J. 19. 18 is a letter of condolence by Eliah Hakohen, the later Gaon to בן דודינו כז"ק מר' וכ' אברהם הכהן שר העדה Since Abraham Hakohen is styled in the former letters in the same way (שר העדה)

we are fully justified in regarding that Abraham as a member of the gaonic family in Palestine.

We have now to turn to the more important task, namely to settle the dates of these five Abraham Hakohen approximately as far as possible. The first one is mentioned in the panegyric published by Schechter, and now a part of it has turned up in a British Museum Fragment. The newly-found fragment is in so far of great importance for our question, because it enables us to settle the time of the numerous personalities mentioned therein. It is especially important for our question, since Abraham Hakohen is regarded as the writer of the poems!¹ From the new Fragment we learn that the man to whom the poems were addressed had four sons, *Isaac, Jacob, Sahl, and Joseph*.² There is no doubt that their father's name was Abraham. His brother is mentioned, however, without his name.³ Further, we hear of his sister's son,⁴ of Ali Hakohen,⁵ Israel Hakohen, Amram Hakohen, and finally of our Abraham Hakohen.

Who are, now, these men? Schechter has published a series of poems, where the same names (Ben Ali Hakohen, Israel, Abraham and Amram, all Kohanim) recur as in our fragment. If we want a further proof that the Brit. Mus. Fragment is a part of the Cambridge Fragment, we have to consider only the acrostic . . . ע יתי הגולה ועז הגולה יתי לעדי ע . . . Schechter's has it also.

¹ See *ZfHB.*, 7, 112.

² B. l. 11 f.

חסון ישיתך נצור מלרקוב

ונמעי גנתך יצחק ויעקב,

וגם סהל ויוסף יישר למו עקוב,

ואחיותיהם ואמם המהללת בדוריה.

³ B. l. 15

היה אתה ואחייך גדולינו הנעים

⁴ B. l. 18

ערן המוב אשר לצדיקים צפון

בכף נכברנו חסן בן אחותך יהי חפון.

⁵ B. l. 21

דגל הברכה יקום בהתרוממך,

לבן עלי הכהן בן אחי אמך.

Schechter thought that 'their contents represent a panegyric of a head of the Academy מַחֲסִיָּה' (p. 63; cf. 66, 8-9). Schechter drew attention to the last great Geonim in Sura, to Saadya and the last Gaon Samuel ben Hofni. If that were so, then we ought to expect at least the name of Dosa the son of Saadya Gaon (Schechter, p. 65), or Israel the son of Samuel ben Hofni. The man was Abraham (see *ZfHB.*, VII, 112). We venture now to suggest that the hero of the poems was none else than Abraham, the father of Sahalon (on the name סַהְלָאן and סַהֲלָ, see Steinschneider, *JQR.*, XI, p. 316). It still remains unsolved, why in course of time Sahalon and not one of the other brothers, as Isaac or Jacob, became the main representative of this family. That we cannot explain now. Sahalon ben Abraham is well known by the letters he received frequently from Salomo ben Judah Gaon. T-S. 20. 6 contains the marriage contract between Sahalon ben Abraham and Esther, the daughter of Joseph ben Amram, the judge (הַשּׁוֹפֵט), dated Fustat, 1037. Poznański mentions him among the אֲנָשֵׁי קִירוּאָן (see his *Esquisse historique sur les Juifs les Kairouan*, Varsovie, 1909, p. 44) on account of the Document signed by him 794 C. E., 345 Doc. (see Hirschfeld, *Arabic Portion of Cairo Genizah at Cambridge*, V, pp. 3-4, reprinted from the *JQR.*, 1904). Then Sahalon was already, 1034, the head of a court or community. Sahalon's father is styled Haber in the great Synhedrion (T-S. 13 J. 11. 5) and (T-S. 13 J. 13. 28) as already deceased. Before or about 1030 Solomon Gaon wrote many letters to Sahalon about the distress and sufferings of the Jews in the Holy Land (see my article 'Die Wirren unter dem Fatimiden al-Zahir und die Juden in Palästina', in Becker's *Islam*, 1914). If our suggestion is right, and there is nothing which may be said against it, we may say that this Abraham lived before 1030. We get thus a piece of family history and the date of Abraham Hakohen, who lived according to these proofs between 1000 and 1030. A fact which clearly justifies the mentioning of his name in connexion with the published fragments. But we have even further support than would seem at first sight.

We need not consider Abraham Hakohen, who lived perhaps

as late as 1200, or the next one, whom we mentioned under C, because his date is entirely unknown. Yet, a very important personality seems to me to be Abraham, the son of Joseph Gaon. Joseph lived about 989 (see *ZDMG.*, 67, 637). My suggestion that this Abraham was the son of the afore-mentioned Gaon Joseph was attacked by Poznański (*ibid.*, 68, 122), as far as I see, without any reason. For we see clearly that Joseph, the second, who died 1053 was never called Gaon. I have many proofs for the correctness of my view. First of all Worman, who went through the unique and most valuable Collection in the University Library at Cambridge, will bear me out, for he says: the latter has יוסף הכהן החבר ביר' שלמה ראש הישיבה מכ' as signature. That means even after the death of Solomon, his son was never styled neither did he style himself Rosh Yeshibat Geon Jacob (see *JQR.*, XIX, 725). But one might say that he was not called Gaon by himself, or by his contemporaries, but that after his death, when there was no more fear of Daniel ben Azariah (see Schechter, *Saadyana*, p. 88), he was so styled. Now I rely upon two witnesses: T-S., 20. 31, dated 1092, is signed as the third member of the Court by Solomon Hakohenben Rabbi Joseph, *Ab Hayeshiba*, זל (Schechter, p. 81, n. 2). It is quite impossible that this Solomon was the son of Joseph the first, who was even by the Geonim of Babylon considered as their colleague (see more about Solomon ben Joseph in the *American Journal of Semitic Languages and Literatures*, vol. XXII, 155, and *ibid.*, 247). Another son of Joseph, the second, מריית, signed Fragment Adler, No. 2557, and he styles his father likewise as אב הישיבה. I still think that Fragment Adler refers to Joseph the first. Therefore we have only to choose between Abraham Hakohen A and D. The question remains now whether these two are different persons or not. For we see from MS. Adler that the latter was also experienced in the art of versifying. It was, therefore, according to my opinion, justified, to bring the poems in connexion with these two men, named Abraham ben Joseph Hakohen. There can be no doubt that our poems are to be considered with these two names, which perhaps represent one and the same person.

The last one, Abraham ben Isaac Hakohen recurs in Fragment Oxford 2876. 67 as Abu Ishak Abraham ben Ishak, and T-S., 13 J. 15. 14, where a poetical epistle is preserved mostly in Aramaic. It is according to Worman (*JQR.*, XIX, 734) headed by the composer Zakkai Hanasi ben Jedidiah Hanassi. The composer was perhaps a Karaite. Abraham must have been a highly influential personage and was related, as we saw above, to the gaonic family. However, he has nothing to do with the writer of our fragments. I may be allowed to refer here to another point of the history of the Palestinian Geonim, which ought to have further consideration. I came across a fragment dated Damascus 4797, דתשצ"ז—1037, and signed by Elijah גר' בסנהר' son of Salomo ראש ישיבת נאון יעקב זצל. Now if we take זצל for a eulogy for the deceased, then the Gaon Solomon ben Judah, who was the Gaon in Jerusalem about 1046 (see Bacher, *JQR.*, XV, 81 and Epstein, *Monatsschrift*, 47, 341), is a different one. Poznański (*REJ.*, 66, 68, and *ZDMG.*, 68, 123) endeavoured to show that there were two Geonim with the name Solomon. His references are not supported by facts, and therefore not convincing. About Solomon ben Joseph Ab bet Din he says: 'Auf Salomo ben Jehuda folgte nicht der Vice-Gaon Josef Hakohen, der vielleicht inzwischen gestorben war, sondern dessen Sohn Salomo, von dem wir überhaupt wenig wissen.' I have to confess that I know nothing at all about this Solomon Gaon ben Joseph Ab Bet Din, and Poznański unfortunately forgot to give us his collected material concerning this Solomon ben Joseph. The second Solomon, who was according to Epstein no priest, was, as Poznański is going to prove, the son of a Judah and grandson of Berechiah (*ZDMG.*, 68, 121). The reference given in *REJ.*, 66, 64, 61, n. 5, is not satisfactory, since the Oxford Fragment 2729. 5 has nothing else but the name, and he, Solomon, is not even called Gaon, according to the meagre note. I will not ask the question: Who knows how many Judah ben Berechiah were there? Despite of it, the date of the quoted fragment is by no means sure. First of all the time of the poem has to be settled. I found further a fragment in the most valuable

Collection of Mr. Adler in his MS. 3363. 7, wherefrom I copied the following passage :

ואם תשאל מי הוא זה וכן מי שלמה בן יהודה הרא רבם
אשר חבר לך השר [ביושר ?] לבבו? ובנתר ובבורית כבבו.

As I have shown on other occasions, the dignity of Solomon ben Judah was fiercely attacked, and we have to await still further details which may throw sufficient light on this dark and mostly unknown chapter of the history of the Jews. Finally, I mention only, that we infer from T-S. 13 J. 21. 9 that Solomon's native country was not Palestine. The Gaon is ill and his secretary communicates about a man who came from ארץ מולדת אדונינו נאון. The letter is written to Ephraim ben Schemariah.

(2) I cannot accept Dr. Davidson's suggestion that the phrase 4. 32 refers to the Jewish people at large and not to the relation of the writer to heretics. How is 1. 7 ff. and 1. 24 to be explained otherwise? There can be no doubt whatever that there are in the poems personal references in abundance. The writer spoke of the Maccabaeans as of his ancestors and not of the Maccabean period! If the poet wanted to glorify the Maccabaeans as such, he would have spoken of the 25th of Kislev; his intention, however, was surely to tell us the history of his own life and sufferings.

(3) From my notes and first copy made in Cambridge ten years ago, I cannot think it probable that the date does not belong at the head of the first, but at the end of the fourth piece. One would be inclined to agree to Dr. Davidson's suggestion, as I myself considered it several times, yet my pagination of the copy is against it.

A. MARMORSTEIN.

London.

RECENT HEBREW BIBLIOGRAPHY AND PALAEOGRAPHY

Catalogue of Hebrew and Samaritan Manuscripts in the British Museum. By G. MARGOLIOUTH. Part III, Sections II-VII: Ethics; Philosophy; Poetry; Philology; Mathematics and Astronomy; Medicine. London, 1912. pp. 157-377.

THE new instalment of Margoliouth's excellent Catalogue will be received with as great a satisfaction as its predecessors. With the thoroughness we are accustomed to from the previous volumes the learned author brings to our knowledge the manuscripts of the British Museum in the various branches to which the present volume is devoted. The division of Kabbalah, which filled the first section of volume III,¹ is followed here by Ethics (Nos. 865-78), including a very full description of the little-known book of the famous Talmudist Menahem Meiri in its two parts; Philosophy (Nos. 879-923), beginning with the Hebrew translations of the works of the Greco-Arabic school and their Jewish commentators and abbreviators, Levi ben Gershon and Judah Messer Leon, as well as some early Arabic Karaitic manuscripts of considerable interest both in Hebrew and Arabic script; among the Jewish works in this department most of the well-known mediaeval philosophers are represented. In the fourth division, Poetry (Nos. 924-49), No. 930 is of historical importance, including as it does the Divan of Abraham Bedarshi and poems of others in which a great many names occur; Margoliouth's description of the remarkable Codex fills twelve pages. No. 924, IV, if the author's conjecture is right, contains part of Samuel

¹ See *JQR.*, New Series, II, 259, where among the large private collections of Hebrew manuscripts, the great library of Chief Rabbi Dr. M. Gaster has been omitted.

ha-Nagid's lost Ben Kohelet. Among Philology (Nos. 950-1000) we find a part of Abu'l-Faraj Harun's Mushtamil, and a Genizah fragment which Margoliouth believes to be an autograph of Moses ibn Chiquitilla. Mathematics and Astronomy (Nos. 1001-19), again, contain a good many translations from the Greco-Arabic school, just as Medicine (Nos. 1020-41) which concludes the volume. For these translations Steinschneider's masterwork on that subject could be followed by the cataloguer as a safe guide; but Margoliouth's description of many of the manuscripts which were known to Steinschneider only through his short list in some points means a distinct advance over his predecessor, and offers material for carrying further his researches. Thus in No. 888 he for the first time acquaints us with a complete translation of Aristotle's *De Animalibus*, by Samuel ha-Levi, whom he identifies with Samuel ha-Levi *Abulafia* who helped Alfonso X (1252-82) with his astronomical works in Spanish. We do not, however, know whether this Samuel translated any book into Hebrew, and therefore Margoliouth's hypothesis lacks confirmation. Moreover, there was another Samuel ha-Levi, who at least a century later translated into Hebrew a letter of the Vezier Ibn al-Katib of Granada to the Castillian king Dom Pedro (1350-69), the beginning of which is found in a MS. of the New York Seminary. This later Samuel not unlikely was also the translator of Aristotle's book, especially since the family name *Abulafia* does not occur in either MS.

I will add now a few notes made during the perusal of the book. No. 867, VI, has been published from this manuscript by Grossberg as an appendix to his edition of Maimonides's ספר רפואות, London, 1900, pp. 51-61. In the initial poem l. 3 Grossberg reads לרמה for the correct לרוח, and suggests למרה! No. 871, VII. The critical editions of the poem by Steinschneider, *Schach bei den Juden*, p. 195, and Rosin, *Reime und Gedichte Ibn Esras*, pp. 159-62, ought to have been mentioned.—No. 873, I. One would like to know whether the manuscript is identical with the printed אנרות התלמוד, Constantinople, 1511.—No. 873, II. Meiri's שבר נאון is also found in Cod. Guenzburg 220, III.

A complete manuscript of both parts of Meiri's work of the year 1471 was used by Rabbinovitz, in his *Variae Lectiones*, IV; see end of that volume.—No. 874. The relation of the Hebrew to the Judæo-German version of the *ארחות חיים* was very fully discussed by Steinschneider in *Serapeum*, 1869, pp. 132–6; he there reached the conclusion that the Hebrew is the original form of the popular treatise, an opinion he repeated when describing the oldest known manuscript of the Hebrew, written in 1503, in his catalogue of the Hamburg MSS., 1878 (No. 204).—P. 176, col. 1. The corruption in the first comment of Levi can be corrected from the quotation in Steinschneider, who reads *שיריעת אלו השמות אינו* for *הכרחי* *אלו זאת הכרחי*.—P. 180, col. 1. A larger piece of the introduction of Messer Leon was published by Steinschneider in *MGWJ.*, 1893, pp. 313–14.—No. 900. Steinschneider in the passage quoted by Margoliouth says rightly that 1478 is the date of the copyist, not of the translator; see also Cat. Hirschfeld, No. 274, where the original of Cod. Oxford 1227 is described.—No. 901. Hirschfeld's *Kusari* includes, besides the Arabic original, a critical edition of Ibn Tibbon's translation based on several manuscripts. Cassel conjectured that Joseph ben Baruch, for whom Judah Cardinal translated the book, and not the latter translator, emigrated to Palestine; see also Steinschneider, *Uebers.*, 404.—No. 904, II has been used in Gorfinkle's edition (New York, 1912, cp. p. 24), and characterized as very good for the first six chapters of the introduction.—No. 906. The poem *אדון יצרו* is the first in Steinschneider's collection quoted, p. 215 note, see the references, *ibid.*, p. 22.—No. 907, p. 213 end, *ibid.*, No. 61; Bacher, *MGWJ.*, 1909, p. 581.—P. 214, *ibid.*, No. 22; the poem is quoted also in Ibn Jahya's *שקל הקדש* (end of *לשון* *למורידים*).—P. 226. The edition mentioned by Steinschneider as printed in 1839 is actually that of 1847 mentioned, p. 225.—No. 918, III. The introductory poems were published in the *Literaturblatt des Orients*, 1847, p. 404 sq., with some variants; Steinschneider in the Bodleian Catalogue, p. 1573, doubts the authenticity of some of them.—No. 918, IV. The poems in Firkowitz's introduction to Sluzki's edition.—No. 922, about the

היי עולם, see Loewenthal in *Festschrift Feilchenfeld*.—No. 925, Ia, is by Abraham ibn Ezra; see Rosin, *Reime und Gedichte* p. 152; III a, *ibid.*, 148.—In מוסר השכל, No. 925, II, the reading למהרים is to be preferred to those of the editions.—No. 926. Lagarde's edition is based on this manuscript, Kamika uses both Nos. 926 and 927 in the notes to his edition.—No. 926, II. See Davidson, *Parody in Jewish Literature*, p. 7 sq.—No. 930. See Neubauer's description in *Rabbins français*, pp. 710–14.—P. 263, note. See now *MGWJ.*, 1913, p. 314 sq.—No. 951, II and III, belong together and form a combination of Sherira's Letter and the Seder Tannaim; the passage which disturbs Margoliouth is a well-known quotation from the latter source, from which the greater part of p. 46 of Neubauer's edition is taken, while p. 181, bottom to the end, mainly belongs to Sherira.—P. 295, note. Wickes, who has compared the two manuscripts, and a third in Parma, states that they agree 'almost verbatim et literatim' (*A Treatise on the Accentuation of the Poetical Books*, p. viii).—No. 970. The fourth of the short pieces at the end of the manuscript is printed from this text in Ginsburg's *Introduction*, p. 351.—No. 971, II. See the detailed description in Della Torre, *Scritti sparsi*, II, pp. 300–333, and comp. Steinschneider, *Geschichtsliteratur*, p. 116.—No. 972, end. The fourth part of Dafiera's work is found in MS. Berlin 114.—No. 976. The introductory poem is completely published in *MGWJ.*, 1899, pp. 143–4.—No. 1013, II. See Steinschneider, *Bibliotheca Mathematica*, 1899, pp. 3–4; in a manuscript of the New York Seminary the treatise of the son follows the father's work, which is accompanied with marginal glosses and additions with the heading עור תוספות באור. The solar eclipse of the 28th of Iyyar, 5263 (March 24, 1503), is mentioned in this treatise. In the New York manuscript Al-Hadib's work is preceded by an introduction of Abraham ben Hayyim, באשקן, who also added corrections to the work in Cairo, 1542, after having previously revised the tables of Yom Tob Poel; he promises the same for the tables of Zacuto.—No. 1015, V. As the preface contains the words וקראתי שמו רובע ישראל, the manuscript contains the longer version.—No. 1016, VIII

The treatise of Mose Provinciale is printed with the More in Sabbioneta, 1553.—No. 1021, I b, is version A of Steinschneider.—No. 1022, II. The verses of Moses ben Isaac were published by Carmoly, *Literaturblatt des Orients*, XI, p. 304.—No. 1022, III. See Steinschneider, *Uebersetzungen*, p. 720, No. IV, and Sacerdote, *Catalogue Neofiti*, No. 29.—No. 1025, II, follows the Latin text of the Opera Constantini; see *Virchow's Archiv*, XXXVII, pp. 361-3.—No. 1036, II. Abraham ben Meschullam is hardly the name of the copyist, the epigraph refers to the translator.—No. 1036, IV. The division into six chapters is also found in Codex Uri 422, and a manuscript of our library, formerly Halberstam 484; see *HB.*, IX, 173.

It is to be hoped that Margoliouth will soon be able to present us with the final volume of his great work, which will contain the miscellaneous manuscripts, and the indispensable indices which will make the wealth of important information to be found in the pages of these volumes fully accessible.

Bibliothek der israelitischen Kultusgemeinde Wien. Katalog der Salo Cohn'schen Schenkungen. Von Dr. BERNHARD WACHSTEIN. I. Bücher aus der Sammlung des Rabbiners Nachum Beer Friedmann-Sadagora. Wien: GILHOFER und RANSCHBURG, 1911 (pp. xviii + 215). II. Bücher aus der Sammlung S. H. Halberstam, Bielitz. *Ibid.*, 1914 (pp. xiii + 178).

The bibliography of Hebrew books printed during the last 180 years is still in a rather primitive condition. For the works printed up to 1732 Steinschneider's famous Bodleian Catalogue (1852-60), with its supplement (1894) is fairly complete, although during the last decade quite a number of unknown books from early times have come to light. For the period following 1732, however, hardly an attempt at completeness has been made. The comprehensive supplement to Benjacob's *Thesaurus*, carefully collected by the author's son and revised throughout by Steinschneider, is unfortunately still unpublished. Thus, at present, the student of Hebrew literature, in his effort to ascertain all the data about a book, is compelled to consult the catalogues of

public and private libraries, and even those of booksellers which are frequently not very reliable. Only for very few printing-places fairly complete annals have been compiled.

Among the most neglected and least known Hebrew prints are undoubtedly to be counted those coming from the printing-presses of Russia before the suppression by the censorship, and partly also those of Galicia. These books to a large extent are not found in any of the great libraries whose catalogues are accessible, and several Russian printing-places are not at all represented in any catalogue. There are cities in which very few or even one single book have been produced, and bibliographers up to recent times paid no attention to these printing-presses. One of the reasons contributing to this neglect is perhaps the fact that these books are mostly of an unpleasing appearance, owing specially to the paper used.

In 1886 E. Deinard, then a bookseller in Odessa, enumerated in one of his catalogues (No. 7) thirty-nine different Russian printing-places, the productions of which he wished to acquire. In 1894, on the occasion of an exhibition in St. Petersburg, Harkavy published a list of over fifty such printing-places and their earliest production, but even his list is not entirely complete. Thus in the collection of the New York Seminary we have two books (סליחות and דרך הישר על דקדוק) printed at זבארין, 1812 and 1817 respectively, one (תקן ליל שבועות) at בלילובק without date and one in the village סקראליבקה near Berdychev in 1818 (Machzor, ii, with commentary and Judeo-German translation in folio; Vol. I was printed in Berdychev). Only the Friedland library in the Asiatic Museum of St. Petersburg, as far as it is known, has made a systematic effort to bring these books together. In this country Judge Sulzberger, realizing the value of this neglected branch of Hebrew bibliography, has collected a considerable number of these prints which he presented to the Jewish Theological Seminary in 1903, and to which he has frequently added since, so that our Library is now particularly rich in this branch. Bibliographically the largest number of Russian prints are exhaustively described in M. Wiener's catalogue,

קהלת משה. But this most valuable book, which promised to become a standard work of reference, unfortunately seems to have stopped at the end of the letter ט, as since 1904 no continuation has appeared.

The Russian and Galician prints do not by any means deserve this general neglect. To mention only the most obvious points, we may say that they offer most interesting indications of the state of culture among the Jews of Eastern Europe around 1800, they show the influence and spread of Ḥasidism, and their הסכמות are important sources for the history of the Russian Rabbis of that period. It is therefore a matter of great satisfaction that a new catalogue has appeared that is rich in this respect and gives full bibliographical details not found anywhere else about many a rare Russian print.

Rabbi Friedmann, the son-in-law of the Rabbi of Sadagora, was a collector of no mean attainment. The curious catalogues of Desiderata which he sent out occasionally show that he had a fair bibliographical knowledge, and was looking out for books of great rarity. One-fourth of this collection, the books missing in the library of the Jewish community of Vienna, were purchased by Mr. Salo Cohn, and are now described by Dr. Wachstein. Of the 923 books of the present catalogue only about one-third originated from the East-European presses, but as they are the least known they form the characteristic and important feature of the catalogue, although extremely rare books from other countries are not missing, like No. 867 or some of the occasional publications of prayers, twelve of which occupy the last numbers, and might serve to supplement the bibliography of patriotic literature in *Letterbode* V and VII and Steinschneider's *Italienische Literatur der Juden*. Wachstein rightly gives full details about number of leaves, authors of הסכמות, &c., only where they are not given by other bibliographers; otherwise references to Roest and Wiener serve this purpose. For the printers and presses of the East of Europe full particulars are given in the introduction, which thus offers an invaluable addition to the history of Hebrew typography. Wachstein also describes the characteristics of

Rabbi Friedmann's collection, a large part of which was presented to the former owner by his faithful Ḥasidim, who wished in return to receive his blessings, and therefore wrote their names and frequently their wishes in the beginnings and ends of their presentation copies, so that this collection possesses a strange human interest.

The catalogue itself is arranged according to authors. The important points are skilfully extracted from the long Hebrew titles, the information about printing-place, printer, date, &c., are given in German. A full index of the Hebrew titles concludes the valuable volume.

A few remarks on points of detail may be added here according to the numbers of the catalogue.—No. 20 contains extracts from Sambari; see *ZfHB.*, VIII, 190; comp. also Steinschneider, *Geschichtsliteratur*, § 128.—No. 48; comp. Steinschneider, *loc. cit.*, § 254.—No. 32 curiously is for the first time mentioned bibliographically in Hasan's *המעלות לשלמה* (Alexandria, 1894), p. 27 a.—In No. 120 the Ḥasidic owner evidently removed the German part, just as he cut off the lower margins of Berliner's *Rashi* wherever there was found the transcription of the French glosses into Latin characters. This I have been told by Professor Berliner. The title of No. 914 is given more fully in *MGWJ.*, 1899, p. 569.

The books described in the second volume of the catalogue are of quite a different character. They contain a collection of 415 volumes selected from the library of the well-known scholar and collector S. J. Halberstam, which was so rich in unusually rare books. They were bought for the Vienna community in 1896, while 412 of his manuscripts went to England at the time. The bulk of Halberstam's library, consisting of between 5,000 and 6,000 volumes and 140 manuscripts, was presented by Judge Sulzberger in 1903 to the Jewish Theological Seminary. This collection is very rich in extremely valuable works, and so we naturally find among the previously selected 400 many books of very great value, although frequently incomplete copies. I found among Halberstam's papers a list of these books

described by the learned owner, to which I shall refer later on by the letter H.

The twenty-eight incunabula of the collection are described with great detail, so that the statements of the catalogue will be of great help for further studies regarding these books and for identification of incomplete copies. One of these incunabula, an edition of Maimonides's *Mishne Torah*, is entirely unique. The author of the catalogue suggests that it is a Constantinople print; the facsimile given on p. 111 is not sharp enough (a defect shared equally by the thirteen other reproductions) to compare it satisfactorily with other incunabula ascribed to the East, such as the first edition of Bachja on the Pentateuch or the leaves of the first Alfasi; both of these, by the way, have no division of their pages into two volumes as is found in this copy of Maimonides.

I shall now give a few observations.—No. 1 consists of 164 leaves, as Steinschneider rightly states, following Luzzatto, whose full description of the rare book is found in his *Epistolario*, p. 784. Both state that the title, fully copied in the *Epistolario*, is found on the first page, missing in W.'s copy.—No. 49: the reference to the *Monatsschrift* is vol. 1898.—No. 59: see Graeber's *Ozar ha-Sifrus*, III.—No. 80: H. says: 'Mit sehr vielen handschriftlichen Randbemerkungen des Verf. und Hinzufügung des von der Censur weggelassenen.'—No. 81 has 168 leaves; see Manzoni, *Annali tipografici dei Soncino*, II, 1, p. 59 (this most careful bibliographical work does not seem to be known to W.; it ought to have been quoted regularly for the Soncino prints), and C. D. Ginsburg, *Introduction*, p. 806.—No. 88: for the text of the Targum of this edition see Teschen, *Das Targum zu den Psalmen*, Wismar, 1896-1907.—No. 96: the name of the editor is Samuel ben Samuel; Abi is to be omitted.—No. 137 was described by Halberstam in *MGWJ.*, 1871, pp. 85-7; Straalen records an incomplete copy of the second edition of 1856; comp. Neubauer, *MGWJ.*, 1870, p. 309 sq.; Geiger, *Jüd. Zeitschrift*, IX, pp. 275-82; *ZDMG.*, XXV, 484.—No. 148: H. mentions an entirely unknown edition of the *דרשות הר"ן*, besides ed. Constantinople.—No. 154 is only the first half of the book.—

No. 167 is a supplement to No. 270.—No. 185 is printed in Constantinople; the title runs: ספר שמן הטוב והוא שיטה על מסכת יום טוב היא מסכת ביעה וקצת שקלא וטריא על הלכות יום טוב ברברי הפוסקים . . . וכו' . . . דרוש א' לציאת מצרים בסוף הספר . . . שנת א'ך טוב ליישראל לפ"ק. Constantinople, Nissim de Castro. Between the preface of R. Jacob b. David and that of the author four leaves are missing, containing the Haskamah of the Constantinople Rabbinate (Rafael Sabbatai ibn Yakar, Joshua על', and Hayyim Moses ריסקו 'פ') and a preface of the Rabbi of Bagdad, Rafael b. Elijah קעין.—No. 196: H. says: 'Mit vielen handschriftlichen Randbemerkungen seiner Schüler.'—No. 220: the annotator is, as H. remarks, the well-known Rabbi Baruch Fraenkel-Teomim of Leipnik.—No. 257 is printed in 1513; see the lengthy discussion in Davidson, *Parody in Jewish Literature*, II, 1, especially pp. 127–8, and *ibid.*, pp. 131–3, where the authorship of Kalonymos and Gersonides is established respectively; W. treats them as anonymous. Our library possesses the only known complete copy of all the three parodies published by Gerson Soncino in 1513, once the property of the well-known historian Joseph Haccohen.—No. 292 is only one-half of the book.—No. 314: see Steinschneider, *Bibliographisches Handbuch*, p. 8, and *HB.*, III, 56; XV, 111.—No. 330: Zedner and Roest assume that the book appeared c. 1560.—No. 373: H.: 'Mit handschriftlichen Bemerkungen Ghirondis.'

The present volume contains besides the indispensable index of Hebrew titles, also added to the first part, and that of printers and printing-places contained in the preface of the former volume, a chronological list of the nearly ninety volumes printed prior to 1540, and a list of censors which opens with Andreas de Scribanis (a name read Scribaius by Sacerdote, *Deux Index expurgatoires*, p. 27, and Scribarius by Porges, *JE.*, s.v. 'Censorship'), and concludes with Zomegnius so far only known from one entry (see Popper, *Censorship*, p. 146). One misses an index of the owners who are always mentioned in the descriptions. The authors of the approbations one would also like to find together in an index rather than to have them incorporated in the

alphabet of the authors. Altogether the number of references in the body of the Catalogue are much too numerous, and unduly swell the size and price of the book; under the letter C ten books are described, and yet the number of names is sixty-four; under D the proportion is three to twenty-nine, under H seven to twelve. In the more compressed print of the indices these naturally most welcome references would find a more suitable place.

The few additions and criticisms in no way diminish the great value of the careful work of Wachstein, who has during the last few years enriched Jewish science by several important contributions of great interest. It is to be hoped that, although nothing is said about it in the preface, Wachstein will soon present us with catalogues of further parts of the important collection of Hebrew books under his charge.

Le Manuscrit hébreu No. 1408 de la Bibliothèque Nationale.

Par MOÏSE SCHWAB. Paris: C. KLINCKSIECK, 1913.

pp. 34.

The Bibliothèque Nationale of Paris has acquired a number of Hebrew manuscripts since the publication of its Catalogue in 1866. We are much indebted to its genial Conservateur adjoint honoraire, M. Moïse Schwab, for several short lists of these acquisitions, published from time to time in the *RÉJ.*, as well as for similar descriptions of other Hebrew collections in France. Besides his brief lists, the learned bibliographer has presented us with very full descriptions of more important manuscripts, some of which formed part of the *Notices et Extraits des Manuscrits de la Bibliothèque Nationale*. In that series an illuminated Passover-Haggadah and a curious kabbalistic MS. supplementing M. Schwab's useful *Vocabulaire de l'Angélologie* and the present description, an important halakic collection have appeared, showing the varied interests of the venerable scholar. The parchment-manuscript discussed here was written during the thirteenth and fourteenth centuries, and contains works of the German school collected by the copyist for his own use or for some Maecenas.

Unfortunately the first and last leaves, which might have given us some information in this respect, are missing.

The main parts of the MS. are halakic. It contains a treatise of R. Eliezer ben Joel ha-Levi (ראב"ה) dealing with הלכות טרפות, which is followed by the explanation of the formula of the Ketubbah, evidently by the same author and identical with the text published by Sulzbach in the *Jahrbuch der jüdisch-literarischen Gesellschaft*, III (1905), pp. 7-25 of the Hebrew part; this second treatise formed part of the author's great code, the complete edition of which has just been started by Aptowitz in a most admirable manner. Probably the first treatise occurs there too, as well as that on Passover found later in the MS. (see *RÉJ.*, 64, 281). These short texts precede a comprehensive compilation on the laws of mourning, undoubtedly the well-known work of R. Eliezer's pupil, R. Meir of Rothenburg, which was partly published in Livorno, 1819, and is incorporated in an abridged and somewhat changed form in the code of R. Mordecai ben Hillel. The Paris Library possesses a complete copy in its MS. 406. A responsum of the same scholar is found elsewhere in the MS. It further contains part of the Roḳeah by a German authority of the beginning of the thirteenth century, and responsa of his teacher, R. Judah the Pious. The rules of divorce perhaps represent the arrangement of R. Tam; at least, the words בננופא של שוק טרייט occurring there (*RÉJ. l.c.* 281) are found under his signature in a regulation on divorce in Mordecai, Gittin end. A list of the positive and negative commandments concludes the MS., which also includes explanations of Talmudic passages according to the French school.

But the copyist did not entirely limit himself to Talmudic subjects. We also meet a discussion of the calendar which determines the time of the MS., a poem by Ibn Ezra (Rosin, *Reime und Gedichte*, pp. 162-6), accompanied by a commentary (*ib.* 166), a second unpublished poem of his, a polemical work giving an account of a disputation between a Christian clergyman and a Jew, a theological dissertation showing kabbalistic influences, homilies for the holidays, lexicographical notes, &c.

In brief, MS. 1408 is a most curious 'Sammelband', fully deserving the careful description of M. Schwab.

The author discusses (1) some of the authorities mentioned in the MS. (pp. 2-12); (2) its date (pp. 12-14); (3) foreign words (pp. 14-29), namely, a collection of Latin and Greek words explained by Hebrew equivalents in the beginning of the MS., and shown by M. Schwab to follow the Midrash Tanhuma (pp. 14-26), as well as some Romance and German glosses (pp. 26-9); (4) an enumeration of the other elements of the MS. (pp. 29-33), followed by a palaeographical description, which ought to have been supplemented by a facsimile, and a list of some of the Yerushalmi quotations in the various texts (p. 34).

A few minor additions besides the references incorporated in the above account may be of interest to the reader:

P. 2, l. 5. MS. Paris 187, fols. 55-77, which I examined in Königsberg many years ago, contains part of the *Sefer ha-Tadir*.—*ib.*, note 2, and p. 29, note 1. De Rossi's incorrect description of his MS. 392 as *ראבי"ה* has been corrected by Zunz; see his *Gesammelte Schriften*, III, p. 7.—P. 9, l. 3. It might have been added that in § 78 *שנהרג על קרוש ה'* is added to the name of *ריב"א*.—*ib.*, l. 4. R. Meir of England occurs more frequently (§§ 21, 36, 92, 112, 115), mostly his *הלכות שמחות* are quoted. There is no serious reason to call him 'of Norwich'. *מורי' מאיר* undoubtedly in this MS. refers to R. Meir of Rothenburg. The text probably contains additions by one of his pupils, and ought to be compared with Cod. 406 and the edition.—*ib.*, l. 16. Joseph ben Meir (§ 105) is the uncle of R. Meir of Rothenburg (cp. *REJ.*, 58, p. 229), just as R. Isaac (p. 10, l. 4) refers to the Rabbi of Vienna, Austria.—P. 10, l. 23. R. Isaiah da Trani only settled for a short time at Verona; cp. *ZfHB.*, 13, p. 55; *ib.*, p. 47, he is called *גדול הדור*.—P. 11, l. 27. Cp. *REJ.*, 58, p. 236, note 9.—P. 12, l. 17. As the sentence quoted here is by R. Eliezer ben Joel (see his *משפטי כתובה*, p. 24) it proves nothing for a hypothetical compiler.—P. 13, l. 26. Cp. the quotation from *צרפתי* in Israeli's *Jesod Olam*, IV, 2 and 18 (ed. Goldberg, II, 5 a, 33 a), and Joseph ibn Zaddik (Neubauer, *Mediaeval Jewish Chronicles*,

I, 86): . . . לפקידה למ"ה לירידה תמ"ה.—P. 29, l. 3. קמרא is the well-known Aramaic word meaning 'belt'; see e.g. Horayot 13 b.—*Id.*, l. 6. With Merinus, Ibn Janah is meant.—P. 30, l. 6. Read Samuel ben Hofni Ha-Gaon.—P. 32, bottom. Cp. Buber's *Midrash Tehillim*, ch. 90, § 3, p. 194 a and note כ, whence it is evident that the biblical Ruben is meant.—P. 33, l. 2. Ben Yom Tob is to be omitted; it is undoubtedly the famous commentary of R. Eleazar ben Judah, the author of the Roḳeah.—*Id.*, ll. 3–5 is an explanation to a passage of the Talmud (Niddah 67 b).

These few notes in no way detract from the merits of this exhaustive description of a most important MS., for which we are greatly indebted to the learned author.

Specimina Codicum Orientalium. Conlegit EUGENIUS TISSERANT. (*Tabulae in usum scholarum.* Editae sub cura JOHANNIS LIETZMANN.) Bonn: A. MARCUS and E. WEBER, 1914. pp. xlvii + 80; tables 2.

Hebrew palaeography is still a much-neglected branch of Jewish science. We are not yet in a position to determine with any certainty the age of undated manuscripts, or even the country of their origin. In most of our catalogues these data are frequently quite arbitrary. In 1886 Neubauer published as a supplement to his great catalogue of the Hebrew manuscripts in the Bodleian a series of forty facsimiles of Hebrew manuscripts with transcription, and thus for the first time offered an adequate means for an introduction into the reading of such manuscripts. Up to that time the number of facsimiles published was very small, as can be seen from the bibliography compiled by Steinschneider on that occasion (*Centralblatt für Bibliothekswissenschaft*, 1887, p. 155 sq.). Since then the number of reproductions of pages from Hebrew manuscripts has been very greatly increased. We have now photographic editions of important Talmud manuscripts, and the facsimile edition of Ben Sira consists of four different manuscripts. These come from the Genizah, which in a way revolutionized our notions on the subject of palaeography by making accessible to us dated manuscripts much older than the bulk of those

which formed our private and public collections heretofore. Naturally many of the publications from the Genizah treasures are accompanied by facsimiles, and as a matter of fact the majority of facsimiles published in the various periodicals as well as in books during the last fifteen years have been derived from this source. Strack has given a useful bibliography of all reproductions up to 1906 in the *Realencyklopädie für protestantische Theologie und Kirche*, XVII, pp. 774-5. A careful collection of different types of writing in geographical arrangement is found in G. Margoliouth's article 'Manuscript' in the *Jewish Encyclopedia*, VIII, but naturally owing to lack of space the specimens given there are far too brief to fill the want felt in many quarters for a good handbook on the subject. An enlarged edition of this article with full pages of facsimiles would be most desirable. A safe basis for palaeographical studies could only be gained by a systematic publication of a large number of facsimiles of dated manuscripts, and such in which the copyist informs us of the country of his origin. With the help of such a work reliable studies on the form of the letters and the other characteristics of the different countries could be undertaken with confidence. Such an extensive and expensive publication cannot, however, be expected in the near future under the present conditions of Jewish scholarship. Accordingly we must be thankful for the scattered material which is being made accessible in so many different places, and even more so when a considerable number of good reproductions are brought together at a very low price, as is the case with Tisserant's book.

The aim of the work is to put in the hands of the Orientalist specimens of manuscripts, mostly from the Vatican (a few come from the British Museum and the Paris Library), which should serve as a basis for palaeographical exercises. The eighty tables contain reproductions from about 125 manuscripts in Samaritan, Hebrew, Syriac, Palestinian Syriac, Mandaic, Arabic, Ethiopic, and Coptic characters. For the Jewish scholar, of course, the first two groups are of paramount interest, but he will find important materials for his studies in the others as well. Thus

the book includes translations of biblical books into Syriac (23), Arabic (59 a, 61 b, d), among them (53) an important manuscript of Saadia's translation of the Pentateuch in Arabic characters containing the first word of each verse in Hebrew, Ethiopic (62, 65, the latter Enoch), Coptic (70), and a polyglot Psalter (80, Ethiopic, Syriac, Bohairic, Arabic, Armenian), as well as a page from an unpublished medical work of the famous Jewish physician, Isaac Israeli (51 a de urinis).

But I will confine myself in the following remarks to the Hebrew part of the work which is within the province of my studies. Here twenty-four manuscripts are represented, half of them in square, the rest in Rabbinic characters. For practical purposes this gives, in my opinion, too large a share to the square script, which after all can be read in most cases without difficulty by any one acquainted with the Hebrew characters. Besides, reproductions of biblical manuscripts are not uncommon and easily accessible (Kahle's excellent work *Die Masoreten des Ostens*, Leipzig, 1913, contains e.g. sixteen plates of old biblical manuscripts), and while they offer less difficulty to the reader, outside of biblical manuscripts Rabbinic characters are very largely represented in all our libraries. Eleven of the manuscripts are dated, viz. 6 (1294), 7 (1312), 13 (1325), 17 a (1358), 12 b (1383), 15 a (1385), 14 (1398), 15 b (1543), 18 a (1482-8), 16 b (1495), 19 b (1550). Two of them contain Arabic texts in Hebrew characters (12 b and 18 b), one a prayer book, the other, curiously, a Koran. Some of the texts are of interest for literary criticism. Thus the specimen of the Josippon (15 b) enables us to determine that the Vatican manuscript agrees with the common version of this popular book, and not with the text of the editio princeps as Vogelstein and Rieger (*Geschichte der Juden in Rom*, I, 186, note) had thought. Jacob ben Eleazar's poetical book ספר פדרם רמוני החכמה וערוגת בשם המזמרה, the beginning of which is given in 12 b, has nothing to do with Kabbalah, even though some other parts of the volume possibly may contain kabbalistic texts. The communication of this specimen is particularly welcome, since it enables us to solve Steinschneider's doubts (*ZDMG.*,

XXVII, 556-7) about the Vatican manuscript. Bartolucci's ערוגת הבשם and פרדס רמונים are one book, while the manuscript no doubt also contains the נן תעודות described by Steinschneider according to another manuscript. Both show exactly the same style, and are by the same author, the translator of Kalilah we-Dimnah, according to Steinschneider's hypothesis. Another manuscript of our little book is found in the Escorial (*ib.*, 555). The treatise on the astrolab by Shalom ben Solomon, the beginning of which forms No. 18a is an unicum (*Bibliotheca Mathematica*, 1901, p. 69). The old manuscript of Sifra (No. 10) is of a special interest because it adds supralinear vocalization to that Tannaitic text, all the other manuscripts of which lack vowels. Besides the fact that we have here an old Oriental tradition of the vocalization of a Neo-hebrew text, supralinear vowels are very rare outside of biblical texts. This one was probably the earliest manuscript with such vocalization in a European library. Unfortunately it remained entirely unknown. The important variations of the manuscript of the Palestinian Talmud (11) were published in 1909 by Ginzberg as an appendix to his Yerushalmi Fragments, pp. 347-72.

In the introduction the author gives a very brief account of the manuscripts, including the texts of the epigraphs, and transcribes mostly the first lines as a help to the student. To this part of the work as far as the Hebrew manuscripts are concerned serious objection must be raised. Tisserant repeatedly misreads his manuscripts, misinterprets abbreviations in a ridiculous way, and thus misleads the beginner for whom the book has been prepared. It is greatly to be regretted that again a good and useful book is marred by bad blunders in Jewish matters. It is curious to observe again and again how careful scholars, with a more or less thorough knowledge of biblical Hebrew, believe themselves competent to write on subjects requiring intimate acquaintance with later Jewish literature, and do not realize that in a field in which they are beginners, they are greatly in need of expert advice which after all they could easily get from Jewish scholars. Vollers's Catalogue of the Oriental manuscripts in Leipzig is

another well-known example of this curious phenomenon, not to speak of some of the volumes of the new Giessen Mishnah edition. It is a pity that in spite of all the progress Jewish science has made in the last century, one is compelled time and again to protest against the contributions of incompetent outsiders.

The well-known and often printed Midrash Mishle occurs here (19 a) as an anonymous commentary on Proverbs. For the Sifra we are informed: 'textum invenies in edd. libri Sifra et totius Meḥilta (*sic*).' The last three words have absolutely no sense. The two books are independent of one another, and have never been printed in one volume. What the author means by the 'whole' Mekilta I do not know.

In transferring dates of the Jewish calendar into those of the common era the author is quite inconsistent, using indifferently the three possible methods of identification. He sometimes prefers the year in which the first three months of the Jewish year fall (7: 5092 = 1331; 16 b: 5255 = 1494), at times he follows the common practice of taking the year in which the bulk of the Jewish year falls (14: 5159 = 1399; 15 b: 5204 = 1444), and at others he combines both (15 a: 5145 = 1384/5; 17 a: 5118 = 1357/8). Even where the epigraph contains day and month of the Jewish calendar and make an exact identification possible the author never troubles to consult the tables for the conversion of Jewish dates, and as it happens generally selects the wrong year. How far Assemani is responsible for these miscalculations I am unable to ascertain, as his catalogue is inaccessible to me here. In one of the manuscripts (14) the scribe finished his work in the week of the portion וישב, which in the year 5159 was read November 30, 1398, not in 1399! The date reads according to Tisserant: יום היום הוא פר' ואביו שמר את הדבר שנת קנ"ט; the first three words probably read in the manuscript: יום ה' י"ט כסלו. Similarly the 15th of Kislew 5055(6) fell on December 5, 1294, not 1295; and the 28th of Kislew 5204 (15 b) fell on November 20, 1443, not 1444. On the other hand, the 10th of Adar I 5255 (16 b) was Wednesday, February 4, 1495, not 1494. The last date is not quite beyond doubt. De Rossi (*Variae Lectiones*, I, lxxxv,

No. 509) assumes that the ה' of רנ"ה stands for the thousands, and the scribe wrote in 5250; in this case he finished Monday, February 1, 1490. Perhaps the week-day was given in the erasure, and a close examination of the manuscript may show whether it read יום ד' or ב', and thus enable us to determine which of the two dates is correct. For No. 13 the amount of the addition is 85, and not 95, as stated by an oversight; accordingly the year would be 1325, not 1335; but it ought to be remarked that Rabbinoicz (*Variae Lectiones*, XI, p. 16) believes the manuscript to have been written in 1280.

The points mentioned so far, however, only refer to details, which do not materially impair the value of the book as far as its main aim is concerned. It is more serious that the author shows himself unfamiliar with the most common abbreviations, which he does not recognize. In 15 a he makes the copyist say: שלי שבתי כ[בור] ב[מקומו] מ[וניה] ר[בי] יחיאל י[הא] ש[למא] ר[בא] שלי שבתי ב[ן] כ[בור] מ[ורנו] instead of שלי שבתי ב[ן] כ[בור] ב[מקומו] ר[בי] משה ר[בי] יחיאל י[חיה] ש[נים] ר[בות] ב[ן] כ[בור] ר[בי] משה. The formula כבודו במקומו מונה, which he thinks the scribe wrote after his name, is only used in cases of contradiction to the opinion of a deceased scholar. In 19 b the title of the book (מדרש הנעלם) influenced Tisserant to offer the following comical epigraph: כתבתי זה הספר לבקשת הנשא במ[דרש] ה[נעלם] ר[בנו] ר[בי] הנשיא כ[בור] מ[ורנו] הר[ב] ר[בי] מרדכי ב[ן] מרדכי instead of כתבתי זה הספר לבקשת הנשיא במ[דרש] ה[נעלם] ר[בנו] ר[בי] הנשיא כ[בור] מ[ורנו].

In transcribing the text from No. 14 Tisserant overlooked the dots over the words שיאמר קריש, which stand for 'deleatur', and misread the ם, the first letter of the following line, which is placed at the end of this line not to leave too much empty space; the same cause probably is responsible for the וי in the epigraph of No. 13 (unless the manuscript reads וי), and for the ש after ברבי in the epigraph of No. 6. The insertion of a ה in חלים (p. xvii, l. 28) is as superfluous as that of עם in כל מעשיך עם (p. xviii, l. 22).

The name of the scribe of No. 7, according to Freimann in his list of Spanish copyists (*ZfHB.*, XIV, 106, No. 5; cf. No. 131), is סרקסניאל instead of כרוניאל.

P. xiv: in transcribing the masoretic notes of the important MS. No. 3 the biblical references which are added in Nos. 5 and 6 are omitted. While the misprinted ו for ה has been corrected in the Errata, it has not been noticed that one of the eight passages has been omitted in the manuscript, which only enumerates seven instances. The missing one can be supplied by comparison with the printed Masora, e.g. ed. Ginsburg, II, p. 38. The whole passage may be repeated here in a corrected form and with addition of the references. The letters which the author misread are underlined>.

- 1 (וביתו Ex. i. 1) וביתו ו: ואלה שמות (Ex. i. 1). ואנשי אשר
 1 Reg.) 2 (2 Sam. 2. 3). וישב דוד (1 Sam. 27. 3). וביתו אשר ישב
 7. 8). וחמרו שדות (Mi. 2. 2). ועם־האלהים (2 Chr. 24. 16).
 2 (Ex. i. 5) ה פסוק[ין] אית בהון וכל וכל וחד מלה ביניהון: וימת
 יוסף וכל אחיו (Ex. i. 6). ויקם פרעה לילה (Ibid. 12. 30). לכל כלי
 המשכן (Ibid. 27. 19). ופקדת משמרת (Num. 3. 36). ויאמר המלך
 (רוד textus mas.) אל אחי (2 Sam. 15. 22). וישמע המלך יהוקים וכל
 גבוריו (Jer. 26. 21). ואמרת אליהם שמעו דבר יהוה מלכי יהודה (Ibid.
 17. 20). [וכל בנר (Lev. 15. 17) omisit scriba].
 3 ירבה (Ex. i. 10). ירבה ה: נתחכמה (Ex. i. 10). וכאשר יענו
 אותו (Ibid. i. 12). ובקרך (Deut. 8. 13). ב בו. ברבות רשעים
 (Prov. 29. 16): וכל ד־מִיד לבי וכי דכותהון בר מן חד ואל אלהים
 כי־ירבה (Is. 55. 7).
 4 (וכאשר Ex. i. 12) וכאשר ב רא[ש] פס[וק]: יענו (Ex. i. 12);
 יאמרו אליך (Ez. 37. 18).

A list of smaller corrections including a few misprints may conclude this review.

PAGE LINE

- xv 34 *read* ושה חסר וכל נביא[ים] וכתוב[ים] מות[ר] מלא
 [ז מלא] ושא[ר] חסר וכל . . . בות[הון] מלא
 36 belongs to לראובני and ought to follow the
 brackets

PAGE LINE

- xvi 11 *for* אליעזר *read* ע'יאזר
Ibid. *for* בן[הוא ו]בניו *read* בו בניו
 12 *for* בשנת *read* לשנת
 16 *for* כמפ[ריש] לגבוהה: *read* כמפ[רש] לגבוהה מאדם (v. 28)
- xvii 24 *for* והכותב עבדיו *read* והכתב עבריה
 31 *for* באצה *read* כעצה
 32 *for* ואכתצאר *read* ואכתצאר
 last l. *for* וערונת בשם המזמה *read* וערונה בשם המזמה
- xviii 1 *for* ואת יקר *read* ואתיקר
 2 *for* ואמהר *read* ואמרה
 12 *for* מציע[א] *read* מציע
 13 *for* שועתינו *read* שועיתינו
 25 *for* המכונה *read* המטנה
Ibid. *for* פרש[ת] *read* פרש[ה] ואביו שמר
 28 *for* וכו[ל] *read* וכו[ל]הון
 29 *for* קוד[ם]. . . *read* קור[א] שיוציא
Ibid. *for* כגון *read* כגון
 33 *for* פולצאנו (Monte Polotsk) *read* בהר פולצ' (Polotsk) cf. *ZfHB.*, XVII, 164.
- xix 7 *for* א[דוני] מ[ורי] *read* א[דון] מ[?] *for* [?]
 9 *for* שיחיה *read* שיחיה
Ibid. *for* א[דוני] *read* א[דון]
 10 *for* שיוכני . . . יוכני *read* שיוכני . . . יוכני
 23 *for* ארני *read* ארני
 25 *for* אני *read* אוי
 30 *for* היף *read* היף; cf. Kennicott, *Dissertatio Generalis*, ed. Bruns, p. 500
 32 *for* ומ[פי] ו[רעד] ? *read* לעולם ? *read* ועמ[וד]
- xx 1 *for* יגיענו . . . שהאדם *read* יגימרו . . . שהדם
 4 *for* הארבעה *read* הארבעה
 26 *for* והגהתי . . . הגהתי *read* והגריתי . . . הגריתי
 27 *for* מ[ורינ] ו[רבינו] ה[רב] *read* ב[י] מוהר
 28 *for* התבאר אין *read* התבאראין

PAGE LINE

xxi	2	for יתכן . . . יתרן read יתכן . . . רק
	3	for הנקרא דנקרא read הנקרא
	4	for אמנם אמהם read אמנם
23		for תמצאנ[ה] תמצא נ[ביא] (?) read תמצאנ[ה]
28		for תקוני תכוני read תקוני

All the mistakes, including a dozen more corrected by the author in the Errata, occur in eight pages of the introduction (pp. xiv-xxi). The photographic reproductions are excellent. It would be most desirable that the publishers would have these few pages reprinted. We would then possess a book which could be warmly recommended in every respect. Even now the materials made accessible by it are of considerable value for Jewish science.

ALEXANDER MARX.

Jewish Theological Seminary
of America.

RECENT WORKS ON COMPARATIVE RELIGION

Introduction to the History of Religions. By CRAWFORD HOWELL TOY, Professor Emeritus in Harvard University. (*Handbooks of the History of Religions.* Edited by MORRIS JASTROW, Jr., Ph.D. Volume IV.) Boston, New York, Chicago, London: GINN AND COMPANY. pp. xix + 639.

History of Religions. By GEORGE FOOT MOORE, D.D., L.D., Professor of the History of Religion in Harvard University. I. China, Japan, Egypt, Babylonia, Assyria, India, Greece, Rome. (*The International Theological Library.* Edited by CHARLES A. BRIGGS and STEWARD D. F. SALMOND.) New York: CHARLES SCRIBNER'S SONS, 1913. pp. xiv + 637.

Allgemeine Religionsgeschichte. Von CONRAD VON ORELLI. Zweite Auflage in zwei Bänden. Ersten Bandes erste-dritte Lieferung. Bonn: A. MARCUS UND E. WEBERS VERLAG, 1911. pp. 1-288.

Orpheus. A General History of Religions. By SOLOMON REINACH. From the French of Solomon Reinach, author of *Apollon*, &c. By FLORENCE SIMONDS. Revised by the author. New York: G. P. PUTNAM'S SONS. London: WILLIAM HEINEMANN, 1909. pp. xiv + 439.

Studies in the History of Religions. Presented to Crawford Howell Toy by Pupils, Colleagues, and Friends. Edited by DAVID GORDON LYON, GEORGE FOOT MOORE. New York: THE MACMILLAN COMPANY, 1912. pp. viii + 373.

The Unity of Religions. A Popular Discussion of Ancient and Modern Beliefs. Edited by J. HERMAN RANDALL, D.D., and J. GARDNER SMITH, M.D. New York: THOMAS Y. CROWELL & Co. pp. viii + 362.

Comparative Religion. By F. B. JEVONS, Litt.D., Professor of Philosophy in the University of Durham. (*The Cambridge Manuals of Science and Literature.*) Cambridge: at the UNIVERSITY PRESS; New York: C. P. PUTNAM'S SONS, 1913. pp. vi + 154.

Das stellvertretende Huhnopfer. Mit besonderer Berücksichtigung des jüdischen Volksglaubens. Von ISIDOR SCHEFTELOWITZ. Giessen: ALFRED TÖPELMANN, 1914. pp. 66.

Some Palestinian Cults in the Graeco-Roman Age. By G. F. HILL. (From the *Proceedings of the British Academy*, vol. V.) London: HENRY FROWDE. pp. 17. With one plate.

PROFESSOR TOY'S work is in the first place a compendium, or digest, of the data and information on the 'principal customs and ideas that underlie all public religion'. The whole material is grouped in eleven chapters, viz.: I. Nature of religion; II. The soul; III. Early religious ceremonies; IV. Early cults; V. Totemism and Taboo; VI. Gods; VII. Myths; VIII. Magic and divination; IX. The higher theistic development; X. Social development of religion; XI. Scientific and ethical elements in religious systems. Each chapter has its subdivisions, and the whole text is broken up into 1,173 paragraphs. A detailed analytical table of contents, filling eleven pages, and an index of fifteen pages facilitate the use of the book for reference, while a topically and ethnographically classified bibliography, covering thirty-nine pages, direct the student to the vast literature on the subject. There are besides in the text and foot-notes copious references to the literature on special topics which are discussed in the work, showing at the same time that the author has looked into every nook and cranny where information on his subject might be hidden.

But the book is also a notable contribution to the interpretation of the phenomena of religion as they find expression in belief, rite, and custom. They are set in vital relation to one another and to other departments of life, and the influences

which have shaped an idea, a cult, or a ceremony are briefly checked or counterbalanced.

The basic elements which in Professor Toy's opinion underlie and condition the genesis, development, and eventual transformation of religious ideas and practices, may be summed up as (1) Universality, not only of what is termed the religious instinct or the religious sense, but also of certain germinal conceptions, 'As basis of the religious feeling we must suppose a sense and conception of an extrahuman something, the cause of things not otherwise understood. . . . The sense of the infinite may be said to be present in man's mind in germinal form at the beginning of truly human life.' (9) (the figures refer to the paragraphs) 'The central fact of the higher religious experience is communion and union with the deity, and the roots of this conception are found in all the religious ideas and usages that have been formulated and practised in human history' (16, cp. 3, n. 1-7, with regard to natural law; (630) on the sense of obligation). This observation is based (2) on the unity of the human race; 'The diversities in the form of ceremonies, in the conception of the characters of the Powers . . . arise from economic and cultural differences; the unity of cults is a result of the psychological unity of the human race—the religious needs of men in all stages of culture are the same; there is nothing in the highest religious systems that is not found in germ in the lowest' (943, cp. 16). (3) The unity or unitariness of life. 'Human life is always unitary, no one part can be severed from the other; it is a serious error, impairing the accuracy of the conception of religion, to regard it as something separate from life' (1015). Hence the discussion of the facts of religion are everywhere accompanied by the delineation of the other factors of life, such as the social organization, the climatic and economic conditions of the period and country, the cultural state of the believers and mutual interaction pointed out, 'In general religious development goes hand in hand with social organization' (13). 'The intellectual and ethical content of religion varies with the intellectual and ethical culture of its adherents' (15).

'Religion was a part of the general social movement, affected by all other parts of that movement' (1095, cp. 1009, 1148, &c.).

The spirit which pervades the book may be designated in general as that of detachment and objectivity, free from all partiality, prejudice, and bias. That does not mean to say that Professor Toy sits in Olympic aloofness above all religion. Rather does he stand aside viewing the kaleidoscopic panorama of jostling beliefs, ceremonies and cults from fetichism, animal worship, totemism to spiritual monotheism, as a benign and sympathetic friend, trying to understand all and appreciate all from the viewpoint and standpoint of the human beings who cherished them. There is not a harsh judgement or a contemptuous word in the whole book. On the other hand, attempts at finding some good and some reason in what seems to us the heart of evil, superstition and absurdity, are often met with. 'That idolatry in ancient times was not a wholly bad feature of worship is shown by the excellence of the great religions in which it was practised. Its general function was to make the deity more real to the worshipper, to make the latter more sharply conscious of the divine presence, to fix the attention, and so far to further a real communion' (1094). 'Polytheism has played a great rôle in the religious history of the world. Representing in general a thoughtful protest against the earlier shapeless mass of spirits, it expressed more definitely the belief in the intellectual and moral divine control of all things. It flourished at a time when there was no general demand in human thought for co-operation in supernatural Powers' (965, cp. 107, on dancing; 193 and 379, on the ethical import of the cult of the dead). One other feature worth pointing out is the modesty, caution, and restraint of this Altmeister which he exhibits throughout the book in keeping shy of fanciful speculations and in refraining from hasty generalizations and from establishing theories on the basis of isolated or obscure facts. Conclusions as, 'origin and significance not clear', 'it is wise to refrain from offering a universal theory . . .', are of frequent recurrence (cp., for instance, 199, 220, 518, 569, 649, n. 5, &c.).

The limits of space will not permit of quoting, much less of

commenting on, the numerous problems so masterly handled by Professor Toy, such as animal worship, totemism, magic and divination, the relation between religion and ethics, &c., &c. We will confine ourselves to a few references to the religion of Israel and to the characteristic religious conceptions of the Semites. As regards the latter their religion in general was 'objective, simple, nonmystical' (1100). The more special distinctive features of Semitic theism (as contrasted with that of the Indo-Europeans) are: 'paucity of departmental gods and absence of highly specialized gods'; no cult of heroes, that is, no divinization of men; the organization of malefic spirits into a sort of pandemonium (especially in Babylonia); no abstract deities; the theistic myths lack 'the element of personal adventures of gods', and adds: 'of the origin of these peculiarities of the Semitic theistic system, as of all such origins, it is impossible to give any satisfactory explanation' (811-816). Phallicism as a cult, and totemism among the Semites, Professor Toy considers as not proven (398-400, 517).

Professor Toy's view of the rise and development of the religion of Israel, which is the critical-evolutionistic, is well known and need not here be dwelt upon. One statement of his, however, elicits a question: 'For many centuries he [Yahweh] was regarded merely as the most powerful of the gods, superior to the deities of other nations, and it was only after the beginning of our era that the Hebrew thought discarded all other gods and made "Yahweh" synonymous with "God"' (765), and again (after the exile) 'was established a monolatry which was practically monotheism, though a theory of absolute monotheism was never formulated by the pre-Christian Jews' (995). In view of the numerous passages in the Old Testament as well, as in the Jewish post-biblical, but pre-Christian, writings (see *Jewish Encyclopedia*, vol. VIII, pp. 660 ff., and Hastings's *Dictionary of the Bible*, extra vol., p. 680 b and 681 a), which witness to the solitariness of Yahweh, one would wish that Professor Toy had given the data for this statement and also suggested an explanation why the Jews attained so absolute monotheism at the beginning of the Christian era, and why not before.

On p. 26, n. 1, read 1 Sam. 28 instead of 27.

Professor Toy, by this ripe fruit of the harvest of his life's work, has put under obligation all that are interested in the great theme of religion: to the general reader this book offers more than a mere survey or bird's-eye view of this vast subject; to the student and investigator, a safe and sound guide and *vade-mecum*.

In the Preface Professor Moore sets himself a high aim: 'In the presentation of the several religions the endeavour is made, as far as the sources permit, to show their relation to race and physical environment and to national life and civilization, to trace their history and to discover the causes of progress and decline and the influences that have affected them from without' (p. v). To carry out such a programme requires not only a thorough knowledge of the phenomena and manifestations of the religions as well as of the history and the various cultural phases of the several areas whose religions are under consideration, but also a philosophic grasp of the interplay of these factors, and eminent constructive ability. The reader will not be disappointed. Beginning with the geography and history of each country, passing over to an adequate analysis and criticism of its religious literature and characterization of the great religious teachers, where such have been, and then delineating in order the religious beliefs and doctrines, their expression in cult and rite, temples, priesthood, sacrifices, festivals, burial, and eschatological doctrines, he draws throughout vivid and live pictures of the several religions in their intimate relation with the other factors of life.

Professor Moore does not institute elaborate and detailed comparisons between the several countries or the various religious tendencies and institutions, which are outside the plan and scope of the work. But with a few, seemingly casual, words he succeeds in focusing similarities or contrasts. A few instances must suffice in illustration. In sketching the development of civilization in Egypt, he says: '...and in this necessity of co-operative labour under directive authority we may see, as under similar conditions in Babylonia and in the valley of the Yellow River in China, one great reason why these regions were the predestined

cradles of civilization' (p. 145). But then, coming to the description of the geographical situation of Babylonia, he points out that Babylonia, not being isolated and protected like Egypt, its 'civilization and religion were both more influenced from without and exerted a far wider influence in the ancient world than those of Egypt' (p. 201 f.). So again the diversity in the area of Hellenic and Aegean civilization, in contrast to the uniformity of Egypt and Babylonia, accounts for the tendency of Greek civilization 'to variety, idiosyncrasy, originality', and 'is reflected in the Greek religions' (p. 411 f.). Professor Moore possesses a mastery in setting distant and remote events and tendencies in the right light and make them present and living to us by briefly mentioning a familiar analogy or parallel. The effort of Amenophis IV to introduce monotheism is on the one hand contrasted with Elagabal's 'capricious preference for one cult above another', on the other, compared with the attempt of Josiah to make monotheism the religion of Judah a reality (pp. 181, 185). Josiah's reformation is also put into juxtaposition to the iconoclastic zeal of Ardashir (p. 378). The dispute between the Vishnuite sects about the question whether faith as a condition of salvation is a free act of man or is infused by God, finds its parallel in the controversy between the Augustinians or Calvinists and the Synergists (p. 337; cp. 306, 310, 401, 404). By such touches he shows human (religious) nature to be kin.

The limits of space forbid even touching on other features of the book. That Professor Moore treats his subject in an unbiased broad and even sympathetic spirit need hardly be said. It is evident in his discussion of Confucius, Laotze, Buddha, Zoroaster and the religious and ethical movements started by them.

In conclusion, a word about the excellent equipment of work for reference. At the head of chapters are analytical summaries. In the classified bibliography (pp. 603-16) each work is briefly described; the index (pp. 617-37) is arranged for comparison of institutions, observances and ideas in the different religions.

Tolle lege!

The work of the late Professor von Orelli (died in 1912) is

a German counterpart to that of Professor Moore, following the same scheme in the arrangement of the material of the several religions, with the addition, here and there, of a paragraph on the anthropological traits of the peoples whose religion is treated. It is, however, more comprehensive in scope, and he has attempted, after the analogy of philology, to group the religions of mankind into families, either on the basis of linguistic and ethnographic affinities of the peoples that represented them, or of a certain similarity and community of ideas between them. The former basis, which is the surest indication of relationship, is in a strict sense, he admits, found only among the Semites and Indo-Europeans.

He divides then the religions of the world roughly and loosely into five groups: (1) The Turanian-Mongolian (China, Mongols, Finns, and Japanese); (2) Hamitic (Egypt); (3) Semitic (Babylonians and Assyria, Phoenician and Canaanites, Arameans, Ammonites, Moabites, Edomites, Arabs, Islam, and Manichean and Mandaean); (4) Aryan, and (5) which may be summed up under the head of non-historic religions (African, American and Pacific Islands). The religion of Israel is excluded from a full discussion, 'as it is impossible to give it in this work the space due to its importance'. Its course and development (together with those of Christianity, 'its fruit and crown') will be drawn in a few grand lines to mark its position within, and characteristic distinction from, all the other religions (p. 279).

This brings us to the author's standpoint. He claims the history of religions for Christian theology and postulates its treatment from the Christian standpoint. At the same time he emphasizes that the description of the historical facts must not be influenced or shaped by any presuppositions, nor should the independent value of ideas and beliefs be judged by biblical or Christian conceptions or views (p. 21). These rules Professor von Orelli observed throughout with unsurpassing fidelity, one might say, tenderness. His general theory, as far as it can be abstracted from the religions treated in the three parts before us, is briefly as follows. The religions of all the peoples, and espe-

cially of those of the Semitic family, started with a lofty and unitary conception of the deity, a sort of henotheism which was possibly 'an inheritance from the primeval age of mankind' (p. 46). So in China the Heaven-god, in Babylonia, Anu, who is 'the general and most original conception of the deity in ancient Babylonia' (p. 196). But as God was not sufficiently apprehended as a supramundane person, independent of, and existing above, nature and its phenomena, nor with a live consciousness of the contrast between the holiness of God and the sinfulness of man, God was fused and identified with nature and its phenomena or with spirits and ghosts; which led to polytheism of the popular religions, and pantheism of speculation.

In the first part of his outline, 'Israel and the Semites', with which the third part of the work closes, Professor von Orelli takes his stand against modern criticism in setting complete monotheism—not monolatry—in the period of Abraham and deriving it from revelation.

The most distinctive feature of the book is the note of personal religion. Orelli has given himself in the book. Being a man of deep religious convictions and piety, he feels himself on sacred ground; he looks for the *vestigia Dei* everywhere—and finds them everywhere. And so also he finds everywhere man's groping, faltering, sometimes blundering, outreaching towards God.

The typographical features of the book are not all that could be wished. The print is too small and too close, probably due to the laudable endeavour to economize in cost of publication and so make this great work accessible to as wide a circle of readers as possible. There is no table of contents, and the text is too little broken up in paragraphs with separate headlines. It is to be hoped that a full and comprehensive index at the close of the work will in some measure make up for these drawbacks.

'Orpheus' is in a measure a counterblast to Orelli's work. In the preface M. Reinach refers, in justification of his method, to the omission of the history of Christianity in the manuals of Orelli and Saussaye (p. vi). To atone for this omission, as it were, he allots to the history of Christianity the larger part of his

book, 198 pages, while 187 pages are shared between the nine other religions or groups of religions treated in the book, namely, of (1) Egypt; (2) Babylonia and Assyria; (3) of the Phoenicians and Syrians; (4) the Aryans, Hindus, and Persians; (5) the Greeks and Romans; (6) Celts, Germans, and Slavs; (7) China, Japan, Mongols, Finns, Africans, Oceanians, and Americans; (8) Musulmans; (9) Hebrews, Israelites, and Jews. As a consequence we get of some of them a mere meagre sketch, or rather a bare skeleton.

Before noticing briefly the subject-matter of the book a word on the 'method' and tone and tenor. M. Reinach assures us that 'it is as an historian that he proposes to deal with religion' (Preface, p. vii). But we regret to notice that he sometimes steps down from the lofty seat of the historian into the pit of flippant, if not frivolous, dilettantism. With all due allowance for Gallic verve and vivacity, such expressions as 'the fecund speech of the God of scripture' (p. 33), or, 'God must have plagiarized from Hammurabi' (p. 34), are hardly compatible with the dignity of an historical book which deals with a subject that is to the mass of mankind the greatest thing in life. M. Reinach also sometimes betrays a lack of the judicious temper of the historian who calmly balances alternative possibilities, which shows itself in cocksureness and in dogmatic impatience with others' views, which are branded as 'stupid', 'puerile', or 'absurd' (pp. 86, 174, 179).

Now what is M. Reinach's attitude towards religion, and what does he consider as its fundamentals? 'I see in them [the religions] the infinitely curious products of man's imagination and of man's reason in its infancy; it is as such that they claim our attention' (Preface, p. vii). The resultant of the products is, 'a sum of scruples which impede the free exercise of our faculties'. Thus we must assume that in M. Reinach's opinion man has never sought in religion a positive good, an enhancement and enrichment of life. The scruples find expression in the taboo. To taboo is joined animism, the latter supplies the gods, while to the former are due the religious laws and piety. These are the 'principal factors of religions and mythologies'. There are two others which, 'though less primitive, have not been less general

in their action', namely, totemism, which 'results from the social instinct of primitive man combined with the illusion of animism', and magic, 'the strategy of animism'. Taboo, animism, totemism, and magic are then the four corner-stones of M. Reinach's historical structure; they are Solomon's magic keys which unlock the doors to all secrets and riddles. Totems have overrun this earth everywhere from time immemorial; they have even invaded the cave of paleolithic man in the Pyrenees, while magic was the origin of his art (p. 111). Taboo has laid its 'impeding' hand on our faculties already in Paradise in the prohibition of the fruit of the tree of knowledge (pp. 3 and 178); even the superior animals are burdened with 'scruples', which restrains them from indulging in cannibalism (p. 4 f.).

It is impossible to indicate even by mere dots the trail of M. Reinach's quartet through all the zones of the globe. But a few examples taken from the sketch of the history of the religion of the Hebrews may illustrate M. Reinach's 'method'. Of course there were totems in plenty among the Hebrews. 'Jehovah is a product of animism' (p. 7), and 'the very idea of Jehovah's covenant with Israel is one that is to be found everywhere in connexion with totemism' (p. 180). Not only Moses, Aaron, and Balaam were magicians, but 'Jacob resorted to a kind of sympathetic magic to procure the birth of speckled sheep, Gen. 30. 39' (p. 182). 'The legislation and morality of the Pentateuch are also impregnated with taboo; it is interesting to see moral ideas evolving from it and remaining in touch with it' (p. 178). 'The Decalogue is a revision of an old code of taboo.' But the Decalogue contains a positive injunction: 'Honour thy father and mother . . .'. This is, as it were, the reversal and modification of an ancient taboo: 'If thou strikest thy father and mother, thou shalt die . . . But the taboo thus becomes a law of morality' (p. 179, comp. p. 7). One might call M. Reinach's method of interpretation 'the reversal and modification, as it were' of the ancient allegorical one, and one is reminded of Goethe's xenion:

Im Auslegen seid frisch und munter!
Legt Ihr's nicht aus, so legt was unter.

M. Reinach is at his best where he is freed from the four incubi mentioned above. The delineation of the history of Christianity is masterly. We would also refer to the excellent analysis of the Edda and Scandinavian Saga (pp. 137-42), and the characterization of the Old Testament (pp. 174 ff.). In general it may be said that M. Reinach is a master of combining conciseness and compression with clarity of thought and lucidity of style.

The translator has performed her task exceedingly well. The diction is idiomatic, fluent, in places vivid and brilliant.

The few typographical errors or misprints noticed are: p. 60, line 5 from top, read 'Rama' instead of 'Krishna'; p. 81, line 9 from the top, read 'Sauroctonos' instead of 'Sauroctonas', and p. 185, top, read 'Rosh-ha-shanah' instead of 'Rash-ha-shanah'.

Besides the analytical table of contents at the beginning of the book there are summaries at the heads of the chapters and select bibliographies at their close. The index fills twenty-seven pages.

'Studies in the History of Religions,' presented to Professor Toy on the occasion of his seventy-fifth birthday, comprises sixteen essays, viz. 'English Witchcraft and James the First', by George Lyman Kittredge; 'Buddhist and Christian Parallels; The Mythological Background', by J. Estlin Carpenter; 'Satirists and Enchanters in Early Irish Literature', by Fred Norris Robinson; 'Saint Peter and the Minstrel', by Edward Stevens Sheldon; 'The Liver as the Seat of the Soul', by Morris Jastrow, Jr.; 'The Sikh Religion', by Maurice Bloomfield; 'Yahweh before Moses', by George Aaron Barton; 'Der Schluss des Buches Hosea', by Karl Budde; 'The Sacred Rivers of India', by Edward Washburn Hopkins; 'The Two Great Nature Shrines of Israel: Bethel and Dan', by John Punnett Peters; 'Asianic Influence in Greek Mythology', by William Hayes Ward; 'The Theological School at Nisibis', by George Foot Moore; 'The Translations made from the Original Aramaic Gospels', by Charles Cutler Torrey; 'Oriental Cults in Spain', by Clifford Herschel Moore; 'The Consecrated Women in the Hammurabi Code', by David Gordon Lyon; 'Figurines' of Syro-

Hittite Art', by Richard James Horatio Gottheil; and a Bibliography of Professor Toy's publications by Harry Wolfson.

The essays obviously vary in interest and importance; but they are all scholarly and informing, and some of them are substantial contributions to the subjects treated by them.

'English Witchcraft and James the First' (pp. 1-65) is primarily a defence of James I against the charge of having been a bigoted and rabid witch-hunter. Professor Kittredge proves on documentary evidence that in Scotland the worst period of witch persecutions did not concur with the reign of James I, while in England the statute against witchcraft of 1604 enacted under James was but little more severe than that of Elizabeth in 1563. In general, James I was swept off his feet by a general outbreak of the mania, and, far from initiating persecutions, he endeavoured to stem the tide and to obviate the worst abuses of the procedure of the courts. But the essay is also an important contribution to the history of witchcraft and the manner of dealing with it in England at that period.

'Buddhist and Christian Parallels' (pp. 67-94) starts from the propositions that 'each great historic faith develops its own genius', but at the same time 'every vigorous stock grows by contact and suggestion from without', which indicates the author's view that the occurrence of similar stories or mythological and religious ideas among several peoples may rather be due to transmission than to independent invention. The subjects discussed in the papers are: the story of the two women (i.e. the judgement of Solomon, 1 Kings 3. 16-28), the origin of which is credited to India; to Babylonia are traced the stories of the exposure of Sargon I, and of Moses, and the account of the Deluge. So also is the part played by the mountain Meru in Buddhist cosmogony derived from the Babylonian mountains of the gods, and the sevenfold order of the gods in the Buddhist pantheon is paralleled with the Babylonian seven planets, while the consumption of the world by fire has its counterpart in some passages of the Prophets and in 2 Pet. 3. 5-7, 10. The Gospel stories of the birth of Jesus are placed beside those of Apollo and Buddha.

'Satirists and Enchanters in Early Irish Literature' (pp. 95-130) illustrates the importance of poetic malediction and satire in the life of the ancient Irish. While the combination of the functions of poet and magician is characteristic of early stages of civilization and appears in many parts of the world (Greece, Rome, Arabia, Finnland, Iceland, &c.), in old Ireland the satirists seem to have formed a formidable institution, inspiring terror in individuals and whole peoples. 'Woe to the land that is satirized', and 'the poets commonly got what they asked for'. Even Christian saints had to bow to them. The author adds that the old conception of the supernatural power of poets never disappeared from Ireland. Incidentally the paper gives much interesting information on the early institutions, customs, laws, and beliefs of ancient Ireland.

'Saint Peter and the Minstrel' (pp. 131-42) is the translation of a French fabliau which 'illustrates the materialistic crudity of some mediaeval conceptions of the life to come as well as a familiarly irreverent tone equally natural under the circumstances'. It relates how St. Peter played dice with a minstrel in hell and won away all the souls from hell. The poem must be read to appreciate the grim and coarse humour of the story. Copious footnotes accompany the translation and explain the rules of the game—as it was played in hell.

The thesis of the paper on 'The Liver as the Seat of the Soul' (pp. 143-68) is that preceding the localization of the soul, or life, in the heart and subsequently in the brain, the liver was accorded this position. Professor Jastrow quotes in support of this view numerous references from classical literature as well as from the Old Testament (Lam. 2. 11; Prov. 7. 23; Job 16. 13; Ps. 7. 6; 30. 13, in which latter two passages he would read פֶּכֶד instead of פֶּכֶד). But 'the definite proof that the location of the soul was at one time quite generally placed in the liver' he sees in the use of the liver in divination which prevailed among many peoples, and especially played a prominent part in the Babylonian-Assyrian ritual and among the Etruscans. The rationale of hepatoscopy was the belief that the god assimilated himself to the sacrifice which he accepted. 'The liver of the

sacrificial animal as the seat of the soul becomes the exact reflection of the soul, i. e., therefore, the mind and thought of the god. Liver divination is therefore the earliest form of "mind reading", and the prognostication of the future follows as a natural corollary.' In connexion with the important part played by liver divination in the Babylonian-Assyrian ritual from the earliest time down to the fall of the Neo-Babylonian Empire Professor Jastrow suggests as 'at least possible' that animal sacrifices were at first offered merely for the purpose of obtaining a means of divination, while the elements of a tribute to the gods and of establishing a communion with the gods mark later advanced conceptions (p. 156 f.). This would rather seem putting the cart before the horse. For in order that the animal or some part of it should become a potent vehicle of divination, it must be given to the god to assimilate himself to it, that is, it must be a tribute to the god.

In the paper on 'The Sikh religion' (pp. 169-86) Professor Bloomfield maintains, against Macauliffe in his work which bears the same title, that on the side of doctrine or philosophy the religion of the Sikhs, or 'Disciples', 'contains absolutely nothing new, nothing that is not to be found elsewhere, in some place, and at some time in India'. Its God-conception, which wavers between monistic pantheism and anthropomorphic theism, is found in the Upanishads and elsewhere. It took over from Hinduism the doctrines of transmigration and *Karma*, tintured with a dash of fatalism borrowed from Mohammedanism. Even the ethical institutions of Sikhism, such as the abolishing of caste and the discarding of other galling and cruel Hindu practices and superstitions, have been proclaimed at one time or other before Nanak, the originator and first Guru or Pontiff of Sikhism (born 1469), and would not suffice to account for the peculiar position which the Sikhs hold in India 'not only as a religious body, but as a people of singular character and individuality'. Professor Bloomfield finds the most distinctive feature of Sikhism in the development of the relation between teacher and pupil, which 'in India has always been pious, sentimental and sacramental', into

an ecclesiastico-political force (similar to the Papacy or Tibetan Lamaism), which finally led up to a sort of church state and a sort of nation. By transforming the spiritual Guruship into militant leadership the Sikhs were enabled to stem the tide of Mohammedanism. But Sikhism 'remained at the core an essentially Hindu religion', and the Sikhs are now 'reverting to some extent to Hinduism and are worshipping Hindu gods in Hindu temples'.

Professor Barton's assent to the theory of the Kenite origin of Yahweh, which was suggested in 1862, and his derivation and transformation from the prolific 'mother-goddess' is well known from his 'A Sketch of Semitic Origins' (chapter VII). In the present paper (pp. 187-204) he defends this theory against the several other hypotheses which have since then sprung up. They are the Babylonian theory, set in motion especially by Delitzsch's Babel und Bibel controversy; the moon-god theory which was worked out by Nielsen in 'Die altarabische Mondreligion und die mosaische Ueberlieferung'; the volcanic theory of Gunkel and Eduard Meyer (see Smithsonian Report, 1912, p. 673 f.); the storm-god theory or the equation of Yahweh with Adad or Hadad of Dr. Ward, the borrowing of Yahweh from Edom, where he originally functioned under the name of Esau, which was propounded by Professor Haupt. Professor Barton comes to the conclusion that the 'Kenite theory of the origin of Yahweh supplies all the conditions necessary to account for all the resemblances which have been urged'.

In 'Der Schluss Hoseas' (pp. 205-11) Professor Budde defends, against Cheyne, Marti, and others, the authenticity of Hos. 14. 2-9, showing that in form and substance it is fully paralleled in the preceding chapters of the book, and that in fact it 'contains the very programme of Hosea'.

Professor Hopkins's paper (pp. 213-29) tells what the exuberant Hindu fancy has thought out about the sacred rivers of India, their origin, qualities, potencies, activities, conversations, &c., as handed down in the epic poetry of the Mahabharata and Ramayana.

In 'Nature Shrines' (pp. 231-41) Dr. Peters gives a graphic description of the sites of Bethel and Dan and their physical features, which the author examined in 1902. Bethel with its huge rocks was a centre of stone worship, while Dan with its numerous springs was 'a canonization of the worship of God as the life-giving power, expressing himself in the outpouring of the waters from the deep beneath the earth', echoes of which the author finds in Psalms 42 and 46.

Dr. Ward's paper (pp. 243-53) is a counterpart to, or rather a continuation of, the one contributed by him in honour of Professor Briggs. In both he tries to set forth the influence of Asia Minor on Greek religion and art as against that of Phoenicia and Egypt, and that whatever influence came from Babylonia was transmitted through Hittite and Mitanian mediums. In other words, Dr. Ward contends for a preponderance of an Aryan influence over the Semitic on Greek mythology and art. It would seem rather premature to claim, mainly on the basis of the occurrence of the names of some Hindu gods in a treaty between the Hittites and the Mitani (see Smithsonian Report, 1909, p. 691), these peoples for the Aryans. Dr. Ward discusses his proposition in a cautious and scientific spirit, and illustrates it by tracing, on the basis of representations on ancient seals, his special domain, the Greek ideas of the netherworld with its rulers and judges, the development of composite figures in art (griffins, centaurs, sphinxes), the stories of Atlas, Ganymede, Perseus, and Medusa, &c., to their origins and the modifying mediums through which they had passed.

Professor Moore's paper (pp. 255-67) takes us back to the period of the christological conflicts which gave rise to the theological school at Nisibis, Mesopotamia, at the end of the fifth century. Professor Moore again exhibits his skill in selecting and grouping of the material, and his art of vivid and live narrative, setting institutions and methods of long ago in relation to modern ones. We are introduced to the faculty whose organization was as democratic, if not more so, as that of our present schools, and to the students, some of whom worked their way

through school by engaging in work during the three-months' vacation; we get a good view of the communal life of the school with the courses of study of the three-years' curriculum. It is interesting and instructive reading from beginning to end.

Professor Torrey's treatise (pp. 269-317) is the most important and may be designated as *primus inter pares*. It is a model of painstaking, penetrating research, close thinking, and conscientious balancing of facts and arguments. Against the assumption, on the basis of the recent papyri finds in Egypt, that Biblical Greek is essentially identical with the vernacular (the *Koinē*) of the Hellenistic period, and that the Gospels and their written sources were originally Greek, he proves, by an elaborate and detailed analysis, that there is no such thing as a homogeneous Biblical or New Testament Greek. The conclusion is that the distinct Semitic tinge of the Synoptic Gospels, or of the documentary sources which underlie them, is due to their being translations from semitic originals.

From Professor C. H. Moore's paper (pp. 319-40) we learn that in the second and third centuries C. E. there was in Spain a considerable vogue of the cults of Isis and Serapis, of Cybele, Mithra, and other solar divinities. Their devotees were mostly civilians of humble position.

Professor Lyon (pp. 341-60) breaks a lance for the consecrated women of Babylonia. After a careful and detailed analysis of the sixteen laws in the Code of Hammurabi relating to them, and of the references to them in the contemporary contract literature, he arrives at the conclusion that there is nowhere an indication that these women were officially connected with immoral practices.

Professor Gottheil (pp. 361-65) describes four bronze figurines in his possession (illustrated on two plates), one of which he would designate as Pan, who had a grotto at Banias (Panias) in Northern Palestine.

Unity of Religions is the outcome of a sort of a Parliament of Religions on a small scale. It contains twenty-two lectures delivered on successive Sunday mornings during the winter 1909-10 before an adult class on Applied Christianity, held in

connexion with the Bible School of Mount Morris Baptist Church, New York City, that 'they make more real the truth of the words: "Religions are many—Religion is one"'.

The lecturers were for the greater part members of the faculties of Union Theological Seminary and Columbia University. The subjects discussed in these lectures were: 'The Beginnings of Religion', 'Confucius and the Chinese', 'Brahmanism', 'Buddhism', 'Zoroaster and the Avesta', 'The Religion of Babylonia and Assyria', 'Some Religious Beliefs of the Egyptians', 'The Religion of the Early Teutons', 'The Religion of Ancient Greece', 'The Religion of the Ancient Romans', 'Judaism: Its Principles and its Hopes', 'Mohammed and Islam', 'Christianity', 'Roman Catholicism', 'Greek Orthodox Catholicity', 'Protestantism', 'Reform Judaism', 'The Religious Aspects of Socialism', 'Science and Theology', 'The Symphony of Religions', 'Religion and Education', and 'Religion of the Future'.

With the exception of the lectures on 'Mohammedanism' and on the 'Greek Orthodox Church', the former of which is a fanatical tirade against Mohammedanism and Mohammedans, and other non-Christian religions, and the latter punctured with bitter attacks of the Roman Catholic Church, the tone of the lectures is dignified, irenic, and sympathetic.

Professor Jevons's little book discusses in seven chapters Sacrifice, Magic, Ancestor Worship, The Future Life, Dualism, Buddhism, and Monotheism. The treatment is apologetic, bringing out the superiority and uniqueness of Christianity—as understood by Professor Jevons. Thus, at the close of the somewhat laboured Introduction, in which the sequence and connexion of thought is not always easy to discern, we are told that while in Buddhism and the religions of ancient Egypt, Persia and modern Mohammedanism the gratification of man's desire is the aim and end, and God secondary and subsidiary, in Christ's teaching 'the end to be achieved is God's will, not man's. The motive to it is love—love of God and of one's neighbour' (p. 18). These two commandments (as if Lev. 19. 18 and Deut. 6. 5 had not been indited some time before Jesus uttered them) are often

pressed into service. Thus on the basis of these two commandments Christianity rejects the demand of retributive justice in the other world (p. 84 f., *sic*, see, for instance, Matt. 15. 46). Monotheism attained only in Christianity its perfect form, because it alone developed the full value of personality, the core of which is love (p. 133 f.).

Professor Jevons's booklet shows that partiality is as inimical to equity as is prejudice.

Dr. Scheftelowitz has brought together from all corners and all quarters a large number of data bearing on the folk-lore of the hen. The term 'substitutionary victim' is used in a rather wide sense. So, for instance, the drinking of the warm blood of a hen by a pregnant woman in South India (p. 5) might be considered as a case of magical medicine rather than of 'expiation'; in many other cases adduced in the book the hen is simply a gift to the demons, not a substitute for the giver. Among the instances of averting (apotropaic) magic circles is introduced the story of Honi Hameaggel, who used to draw a circle around him when praying for rain (Ta'anit 23a). Why not take the explanation given in Talmud, viz. that it was intended as a symbolical or dramatic expression of his perseverance: 'I swear by Thy great name that I shall not move from here until Thou takest compassion on Thy children.' It was so understood by Honi's contemporaries, who disapproved of this holy defiance of God. R. Moses b. Nahman lived in Spain, not in France, as stated on p. 33. The concluding chapter, 'Gibt es im Judentum Ritualmord?', while interesting in itself, has little relation to the subject of the book.

Mr. Hill examined some of the evidence as to the existence, in the Hellenistic and Roman times, of local cults and mythology in certain districts of Palestine. The evidence is drawn almost entirely from coins, twenty of which are reproduced on the plates, which would show interpenetration of Syrian, Phoenician, and Egyptian strains in local cults, overlaid by Greek and Roman surface culture. Much, however, of the interpretation of the coins and consequently of the divinities supposed to be figured on them is conjectural. The article will also be of interest to numismatists.

Studies in the Religions of the East. By ALFRED S. GEDEN, M.A.
D.D. London: CHARLES H. KELLY. pp. xi + 904.

The subjects of these studies are the religions of Egypt, Babylonia and Assyria, Brahmanism and Hinduism, Buddhism, Jainism, Confucianism, Taoism, Shintoism, Zoroastrianism and Mohammedanism. In the selection of the religions, as well as in the proportion and method of treatment, the author was guided by the 'comparative importance of the faith in human history, and its influence in the formation and edification of a moral and religious life' (p. viii). Judaism and Christianity are excluded from a formal discussion for the same reasons as in Orelli's work, namely, that their 'direct inclusion would have expanded one volume into two or more, and in effect would but have reiterated facts and conclusions that recent works have most fully and effectively set forth'. An introductory chapter treats of the 'origins', the fundamentals or general conceptions of religion, such as the belief in the existence of a power or powers outside of man, the survival after death, &c., with a criticism of the theories of animism, fetichism, totemism, ancestor worship, &c., and sets forth the scope, object, and contents of the science of comparative religions, the mental attitude and standpoint which the student should bring to it, and the method and principles by which he should be guided in his studies and conclusions.

The studies have been 'for the most part in form as well as in substance' delivered as lectures at the Wesleyan College, Richmond, and they somewhat exhibit the qualities and defects of this origin. There is in the style a certain freshness and a warm personal note of the face to face address, but also a good deal of diffuseness with frequent returns and reiterations, which, while with the audience may have served to emphasize and impress certain facts and statements, are to the reader intrusive and often produce the contrary effect of emphasis, namely, a certain vagueness and want of precision.

The religions of Egypt and Babylonia and Assyria are treated in a comparatively summary manner (pp. 55-130 and 131-84 respectively). The author assumes early invasions of the Semites

into the valley of the Nile. In fact, the 'early settlers in Egypt, with whom its history may be said definitely to begin, were of Semitic stock'. They brought to the new home 'the loftier religious conceptions which they imposed upon the primitive beliefs and practices of the existing population, and which ultimately blended more or less completely with them into a much diversified whole; and a knowledge of the art of writing and of the use of the hieroglyphic signs, in which history and literature found expression' (p. 64). The 'higher belief and cult of the invading Semites', into which were taken up the elements or types of the primitive faith, viz. nature worship, totemism, and star worship, was probably of a 'predominately solar character' (p. 71). But 'the main and most significant contribution which the Semites made to the content of the religious thought and belief of Egypt was their doctrine of the life to come' (p. 72). So also, in discussing the eschatology of Babylonia and Assyria, the author says: 'The resemblance which these beliefs (with regard to the state of the dead and a future life) early assumed and Egyptian doctrine on the subject of future life appears incontestable' (p. 159). In view of the prominent place held by the idea of the life beyond the grave among the Egyptians and its conception as a replica of the life upon earth, as contrasted with the little space given to it in the religious thought of the Semites and the view of the Sheol or Aralu as a shadowy abode of inactivity and decay, the resemblance does not appear 'incontestable'.

The religions of India and Mohammedanism are most fully treated (Brahmanism and Hinduism, pp. 185-431; Buddhism, pp. 432-593; Mohammedanism, pp. 718-881), and may be considered as the best portions of the book. But the work exhibits in all its parts thorough scholarship, familiarity with the literature which is in any way related to the subjects under discussion, and independent judgement. A special feature of Dr. Geden's exposition are the copious extracts and excellent analyses of the sacred literature of the several religions (Book of the Dead, Vedas, Tripitakas, Avesta, &c.). His definitions and explanations of beliefs, doctrines, and rites are characterized by clearness, sanity, and

common sense. Most admirable and praiseworthy is the broad and generous spirit which he brings to the subject. Some of the rules which in the introductory chapter he lays down for the student of comparative religions are, to 'lay aside all prepossessions, and to bring to bear all the qualities of patience, impartiality, and insight in the endeavour to secure a definite solution which shall be based not on speculation but on the broad facts of human experience . . . ' to 'eschew above all hasty generalisations . . . '. And they are conscientiously adhered to by the author.

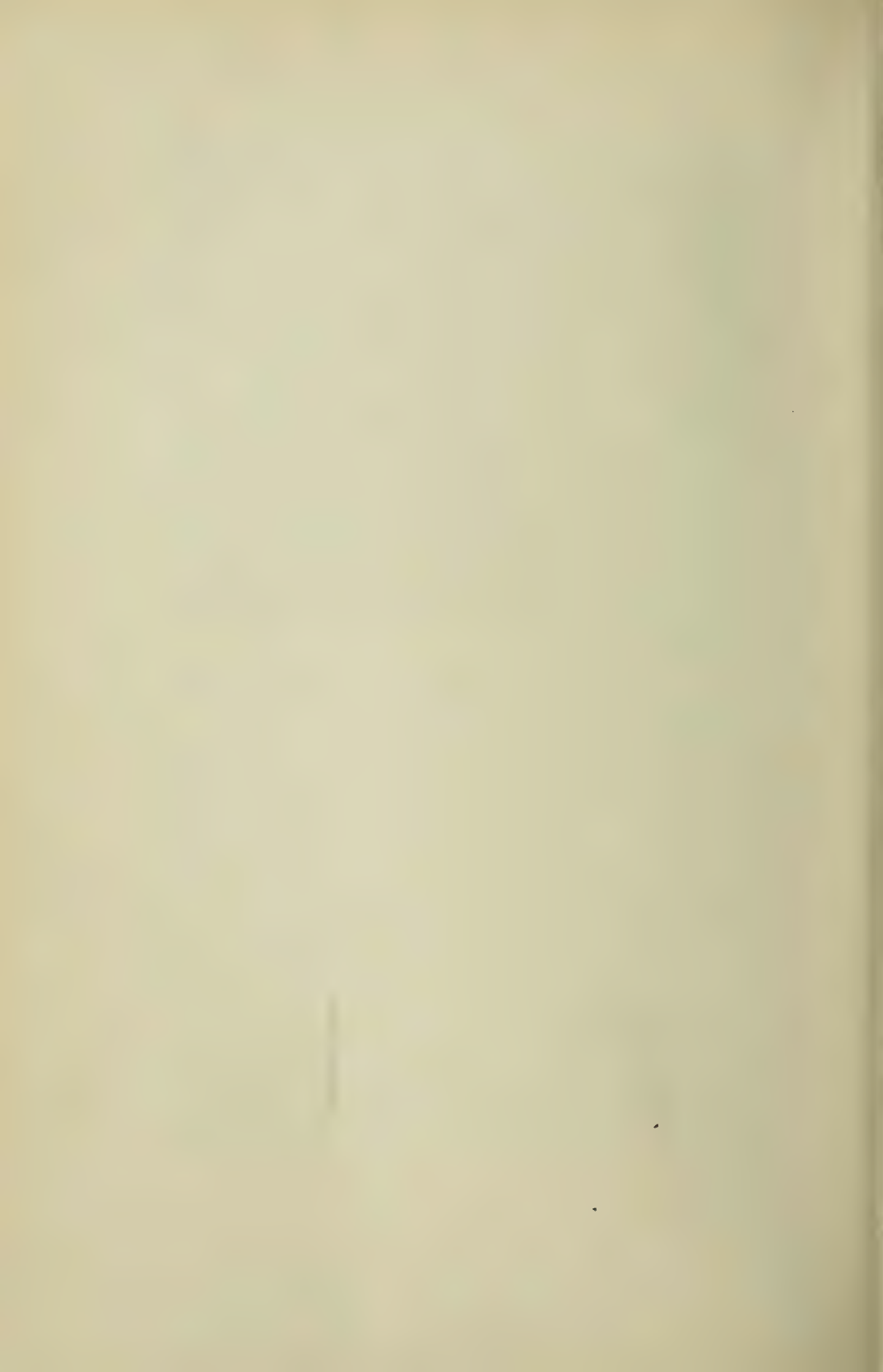
Aside from numerous references to related literature in the text, there are brief bibliographies at the close of each chapter, and tolerably full indexes of subjects and references to passages quoted from the religious literatures.

The Adapa myth is not an episode of the Gilgamesh or Nimrod Epic, as the statement on p. 160 seems to convey, but was found among the Tell el-Amarna tablets. For 'Bossuet', p. 298, n. 1, read 'Bousset'.

The typographical features of the book are all that could be desired.

I. M. CASANOWICZ.

United States National Museum.



RECENT RABBINICAL LITERATURE

Die Mishna, Challa (Teighebe). Text, Übersetzung und Erklärung. Nebst einem textkritischen Anhang. Von Dr. KARL ALBRECHT, Professor in Oldenburg in Gr. Giessen: ALFRED TÖPELMANN, 1913. pp. iv + 48.

Die Mishna, Baba Qamma ('Erste Pforte' des Civilrechts). Text, Übersetzung und Erklärung. Nebst einem textkritischen Anhang. Von WALTER WINDFUHR, Pastor an St. Catharinen in Hamburg. Giessen: ALFRED TÖPELMANN, 1913. pp. viii + 96.

THESE two volumes are two further instalments of the Mishnah under the editorship of Georg Beer and Oscar Holtzmann. One is pleased to note a marked improvement upon the first two volumes by the editors (Berakot by Holtzmann and Pesahim by Beer). There is no attempt to do pioneer work, but an earnest endeavour to give a comprehensive commentary on the texts, ample use being made of the labours of predecessors, with due acknowledgement, whenever necessary. The real aim of this edition becomes quite apparent: it is to introduce Christian theologians to rabbinic literature, and as such it certainly has some merit.

Prof. Albrecht's introduction to Ḥallah is brief, but the author is careful not to omit anything of importance. It deals with the name and position of this tractate, its date and composition. He agrees with tradition in ascribing the redaction of this tractate, as well as the entire Mishnah, to R. Judah ha-Nasi, since no authority after that scholar is mentioned. There are, however, a few interpolations which belong to a later age. The history of giving Ḥallah is briefly sketched out. The Mosaic law and the custom of modern Jews to throw a piece of dough into the oven are described.

The text is, with a few exceptions, carefully vocalized and explained. Jewish commentators, like Maimonides and Bartinoro, are largely drawn upon. As Prof. Albrecht is the author of a useful grammar of mishnic Hebrew, he may be regarded as a reliable guide on many points, and his explanations of the constructions are very valuable. He certainly has grammar on his side when he translates the clause *הרי זה עובר בפסח*, *so muss dies am Pascha weggeschafft werden* (I, 2 a), against Maimonides and Bartinoro, who explain it to mean that he who keeps it (one of the five kinds) transgresses the law of Passover. Albrecht refers to Pesahim III, 1 in support of his interpretation. It must, however, be admitted that the mishnic idiom is in favour of the other explanation.

The punctuation of the Hebrew words in the text and notes, despite the care bestowed upon it, is not free from errors. *צָרַף* (p. 6, notes) does not mean *he added*; read *צָרַף* in Pi'el. For *אוֹכְלִין* (p. 14) read *אוֹכְלִין*, as there can be no doubt that the form is like biblical *אָהֳלִים* (Gen. 25. 27) where *־ִי* became a full vowel. *עָפַר חוּצָה לָאֶרֶץ* (2. 2a) is impossible; read *עָפַר*. For *מִסּוּאָבוֹת* (2. 2b) read *מִסּוּאָבוֹת*. Prof. Albrecht is unnecessarily troubled about the form *יְכוּלָה* (II, 3a). In the notes he remarks that it is *eine auffällige Form des Partizips für יְכוּלֶת*. But since the finite verb *יָכַל* is a *fa'ula* form in the Bible, *יְכוּלָה* is quite correct, just as *יָגַר* is a participle, or verbal adjective, of *יָגַר* (Jer. 22. 25; 39. 17). Instead of *קָבַר* (p. 32, twice) read *קָבַר* as e.g. in Eccles. 1. 10.

On the whole Windfuhr's treatment resembles more that of Albrecht rather than that of the general editors, though he, too, speaks, in his preface, of pioneer work. His introduction is brief, and deals with the name of the tractate and its composition, the practical application of the laws treated of, and the authorities whose decisions and opinions are mentioned. He is certainly right when he remarks that in spite of the attempt of the Romans to deprive the Jews of all forms of independence, the latter found it possible to adjudicate cases among themselves. Hence the laws of the Mishnah have a practical value for the Jews. He also agrees with Jewish scholars that the civil laws of

the Mishnah are the result of an internal development, and have borrowed little or nothing from foreign codes. A comparison with Roman law gives no cause to assume that the Mishnah is indebted to it to a great extent. For similarities do not prove dependence.

The text is vocalized with grammatical accuracy, and deviations from traditional pronunciation are prominent, though not always necessary, and in some cases unjustifiable. The notes, as a rule, are very useful and instructive. Jewish scholars, even those who wrote in Hebrew, like Israel Lipschütz, author of *תפארת ישראל*, are frequently quoted. Grammatical slips, however, occur, now and again, and I should like to call attention to a few of them. *בְּתַרְסִיָּה* (III, 1, p. 18) ought to be *בְּתַרְסִיָּה*. For the impossible *שְׁלֵנָה* (p. 21) read *שְׁלֵנָה*, as in the text. Instead of *וְהַחֲוִירוֹ* (X, 8, p. 84) it is preferable to read *וְהַחֲוִירוֹ*. Another grammatical mistake is *עֲשֶׂרָה אֲמָה* (VI, 4 e, p. 48) instead of *עֲשֶׂר אֲמֹת*. It is true that in most editions rules of gender are not strictly observed, but a critical edition ought to avoid such slips. The correct vocalization of the post-biblical word *עובר* *a fetus* can only be determined by a knowledge of grammar. The traditional pronunciation is *עֵיבֶר*, and has a good analogy in biblical *יֵלֶד* (Judges 13. 8). Barth in his essay *Das passive Qal und seine Participien* explains such forms as the original passive participle of *Qal* instead of *קָמִיל*. At all events no cogent reason can be brought against tradition in this respect. To disregard this and to vocalize it *עֵיבֶר* (V, 1, p. 36), is hardly justifiable, especially as the form *fā'al* is extremely rare in Semitic languages. Windfuhr should have at least drawn attention to it. A similar deviation from tradition is the vocalization *סִימָא* (VIII, 1 f, p. 60), which is usually pronounced *סִימָא*. Now Syriac *ܣܝܡܐ* (Passive Participle of *Pe'al*) would presuppose a Hebrew form *סִימָא* or *סִימִי* which actually occurs, though in a slightly different sense (Ketubot 105a). Here again it is possible that *סִימָא* represents the old Passive Participle, and would therefore be fully justified. Moreover, as *סִימָא* denotes an inherent defect, it is akin to terms denoting colour (comp. *עֵיִר* *blind* and *תָּוִיר*, or *תָּוִיר* *white*), and

would therefore have an analogy in Aramaic אַפֿם *black*. The vocalization סוּמָא is accordingly no improvement. In explaining כִּי צִדֵּד (p. 13) the author should have mentioned the fact that in old manuscripts which come from the Orient, the spelling is usually כַּאִיּוֹצֵר = כַּאִיּוֹה צֵר, and sometimes בַּאִיּוֹצֵר = בַּאִיּוֹה צֵר. The expression שלש על שלש (X, 10, p. 86) is translated by Dr. Windfuhr *drei zu drei* [*Handbreiten*]. In his notes he mentions that Bartinoro explains it as *Fingerlängen*; but he refers to Baba ḳamma V, 5, where the hand-breadth is used as measure. But the latter passage has עֶשְׂרֵה with a masculine noun (טַפַּח), whereas here we have a feminine numeral. Now the usage of the Mishnah in this respect is consistent: whenever a masculine noun is understood, we have to supply טַפַּח *a hand-breadth*; but when a feminine noun is understood we have to supply אַצְבָּע *a finger's breadth*. Dr. Windfuhr is under the erroneous impression that אַצְבָּע and טַפַּח are about the same, for he takes the latter to mean *finger's length*. As a matter of fact a טַפַּח contains four אַצְבָּעוֹת (see Rashi, Pesahim 109 b). This usage is evident in the following passage משום שלשה על שלשה למדרם (Kelim 27, 2). This ought to be a warning to modern scholars not to venture too often to disagree with early Jewish writers upon matters of idiom and usage. The latter are perhaps not scientific, but they know their subject.

The critical appendixes are very useful, and are well compiled. They give the variants from all available sources.

Die Mischna Joma (Der Versöhnungstag). Text, Übersetzung und Erklärung. Nebst einem textkritischen Anhang. Von D. JOHANNES MEINHOLD, o. Prof. d. Theologie an der Univ. Bonn. Giessen: ALFRED TÖPELMANN, 1913. pp. iv + 83.

Die Mischna Middot (von den Massen des Tempels). Text, Übersetzung und Erklärung. Nebst einem textkritischen Anhang. Von D. OSCAR HOLTZMANN, a. o. Prof. d. Theologie an der Univ. Giessen. Giessen: ALFRED TÖPELMANN, 1913. pp. viii + 112.

As tractate Yoma deals with the observances of the Day of Atonement, Prof. Meinhold thought it advisable to devote the greater part of his introduction to the sources and history of that fast. The well-known problems that occupy the minds of higher critics of the Bible are fully discussed, and the results arrived at are those that are usually met with, namely, that the Day of Atonement is a post-exilic institution, since P is the only biblical writer who mentions it. Indeed, Prof. Meinhold thinks it possible that the idea of having a Day of Atonement in order to purify the Temple and the congregation arose after Ezekiel by whose vision it was suggested. The ceremonies of that day are described by Professor Meinhold, though not always satisfactorily explained, as in many instances no plausible reason can be found, owing to our imperfect knowledge of ancient institutions. The writer shows a thorough grasp of the difficult problems, and gives the most advanced views. It is, however, questionable whether such a discussion is relevant to this subject. The remainder of the introduction is devoted to the contents of this tractate, and a brief summary is given of the high priest's procedure.

The editor should have had no difficulty in dealing with the text and in preparing his translation and notes, as he made use of the labours of Baneth, Strack, and other writers to whom he acknowledges his indebtedness. Yet it is impossible to accord unqualified praise to this part of Prof. Meinhold's work. From the philological standpoint his notes are insufficient. Such words as פָּרוּה (III, 3) and מַעֲלִיף (V, 3) were not considered worthy of annotation. Nor is the translation free from errors which betray an inadequate knowledge of Hebrew grammar. A glaring instance is בָּא לוֹ אֶצֶל פָּרוּ שְׁנִיָּה (IV, 2) which Prof. Meinhold renders: *Nun trat er zu seinem zweiten Farren*, making שְׁנִיָּה agree with פָּר! This erroneous translation incidentally shows that the editor did not follow the high priest's procedure in this respect. We are told in III, 8 that the high priest came up to his bullock, and after uttering his confession, walked up to the north of the altar to cast lots on the two goats. It is therefore necessary for the Mishnah to state that the high priest came up to his bullock

a second time. A curious misprint is פתחו ההיכל (III, 10). I do not suppose that the editor would wish to justify such constructions by בָּנוּ בָּעֵר (Num. 24. 3) and תִּיתִי שָׂרִי (Isa. 56. 9). In the *textkritischer Anhang* the phrase is quoted correctly פתחו של היכל. A difficult passage to which the editor, like all his predecessors, fails to draw attention is וגלל את־התורה ומניחה בחיקו (VII, 1). The word בחיקו cannot mean *in his bosom*, as the high priest was standing, apart from the fact that this would be a disrespectful procedure. The obvious suggestion is to read בתיקו *in his case* (Greek *θήκη*). But this supposition seems unlikely on account of the agreement of all texts. In *ZAW.*, 1910, p. 121, I suggested to render Prov. 16. 33: *The lot is cast in the urn, but its judgment is from Jahweh*, taking חֵיק to be identical in meaning with Arabic حَقَّة *a box*, and deriving it from חֶקֶק. The translation *box* or *case* in this Mishnah would admirably suit the context. The suffix of בחיקו may refer to סֹפֵר which some editions and manuscripts have, or to the high priest. The former alternative is more likely.

The main part of Holtzmann's introduction is taken up with the description of the Second Temple as given by the tractate Middot and by Josephus, and is a valuable contribution to this subject. While recognizing the fact that this tractate contains many important and trustworthy data about Herod's Temple, the editor is inclined to side with Josephus when the two accounts are at variance. He rightly observes that Josephus must have been familiar with the structure of the Temple where he probably officiated as priest. Great caution is to be taken in using Josephus in connexion with facts concerning the Romans. In such cases he was prone to sacrifice truth to personal motives. But he had nothing to gain by giving misleading data concerning the Temple. Moreover he wrote also for people who, like himself, knew all details of the structure of the Temple, and it is impossible to think that he would have dared to falsify the facts. The tractate Middot, on the other hand, was redacted about 150 C.E., that is to say, eighty years after the destruction of the Temple, when few, if any, eye-witnesses still survived. There is not sufficient

ground, as Prof. Holtzmann points out, for assuming that R. Eliezer b. Jacob saw the Temple. It is true that his mother's brother officiated as a Levite (comp. Middot I, 2); but this does not preclude his having been a contemporary of Abba Saul, and of having been born after the destruction of the Temple. The trustworthiness of Josephus in connexion with his account of the Temple was attacked by Hildesheimer and Schürer, but Holtzmann refutes practically all their arguments. After his explanations most of the discrepancies in Josephus disappear.

The text of this tractate has often been explained, and on the whole there are hardly any difficult constructions here. But, as in his former publications, Prof. Holtzmann misunderstood a few very easy passages. A curious combination of blunders has been committed by him in I, 2 which reads as follows: וכל משמר שאינו עומד ואומר לו איש הר הבית שלום עליך נכר שהוא ישן חובטו במקלו. It is quite obvious to any one who is familiar with Hebrew, and particularly mishnic constructions, that משמר is the subject of ואומר and that עליך . . . איש is a direct quotation. But Holtzmann takes איש to be the subject of ואומר, and gives this logical rendering: *und zu jedem Posten, welcher nicht stand, da sprach der Mann des Tempelbergs: 'Friede sei mit dir!' Bemerkte er, dass er schlief, so schlug er ihn mit seinem Stock.* The frequently occurring word נָכַר is vocalized by Holtzmann נִכֵּר. The Kāl of this verb does not exist in Hebrew, and for the active the Hiphil is used. An editor of a Hebrew text may at least be expected to use a lexicon intelligently, and I am afraid that such mistakes are to some extent due to Prof. Holtzmann's indifference. A number of other inaccurate vocalizations occur in this text. שִׁאֲרָעוּ (II, 2) is impossible. *A priori* one would expect the verb אָרַע to be used in Kāl like Arabic عَرَضَ. But there are cases where the spelling is אִירַע which presupposes a Pi^{el}. If we consider it a Kāl, we ought to vocalize the word שִׁאֲרָעוּ, and if a Pi^{el}, it should be שִׁאֲרָעוּ. בִּשְׁעַת (II, 4) should be בִּשְׁעָת. There is also nothing to gain by substituting עֲזִיבָת (*Temple-court*) for traditional עֲזִיבָת (II, 7, &c.), as *e* is usually favoured by *ע*.

Verzeichnis der Personennamen in der Mishna. Von D. EMIL SCHÜRER, weil. ordentl. Professor der Theologie in Göttingen. Leipzig: J. C. HINRICHS, 1913. pp. iv + 23.

Before his death Schürer expressed his wish that this pamphlet should be published. As the editor, Hugo Duensing, points out, there is sufficient justification in this publication. It is true that an index of the important proper names occurring in the Mishnah has been published in Hebrew by Mr. Braunschweiger in his book *The Teachers of the Mishnah*. But that index is neither complete nor reliable. Schürer, on the other hand, was a careful and painstaking worker. He devoted his life to the mishnic period, and his *Geschichte des Jüdischen Volkes im Zeitalter Jesu Christi* is a striking example of erudition and system. For the compilation of this index he made use of all manuscripts at his disposal, and it is therefore put on a critical basis. He took great care to point out where there is reason to doubt the authenticity of a passage.

It is to be hoped that this index will prove to be a stepping-stone for the compilation of a complete concordance of the Mishnah which is so much needed.

Beiträge zur Geschichte und Literatur im geonäischen Zeitalter. Von Dr. S. EPPENSTEIN. Berlin: LOUIS LAMM, 1913. pp. 218.

It is one of fate's little ironies that the gaonic period which practically shaped present-day Judaism is so little known. The Masorah, liturgy, and the fixing of Halakah in general may be regarded as the products of those centuries. But there is such a dearth of historical records that the Geonim and the heads of other academies are, with the exception of a few cases, no more than mere names, while there can be no doubt that a number of scholars who influenced Jewish life are not even known by name. We owe a great deal to the constructive genius of Graetz, who, with but scanty material at his disposal, drew a comprehensive sketch of this important period. The discovery of the Genizah

marks a new epoch in this field of research. Views that had formerly been regarded as certain were found to be untenable, and it is safe to assert that the more the Genizah is explored, the more light will be thrown on that obscure period. The fragments hitherto made accessible have been studied with great assiduity, and profitable results have been obtained. A band of scholars in Europe and America are busily engaged in elucidating every passage appertaining to this period, and in lifting the veil as much as possible. And one of the ablest workers is Dr. Eppenstein who has published a number of essays on this subject in the *Monatsschrift*. Five of these essays are reprinted in this volume.

Dr. Eppenstein bases his studies upon the new material, and in the five essays discusses the most important phases of the gaonic period. The first essay deals briefly with Bostanai and his descendants. It is pointed out by the author that opinions about Bostanai's marriage with the Persian woman are divided. Some of the early halakists looked favourably upon it, and a number of Geonim traced their origin to that exilarch. On the other hand a fragment published by G. Margoliouth in *JQR.*, XIV, speaks disparagingly of this marriage. This is in accord with Sherira, who, in his Epistle, emphatically dissociates his family from that of Bostanai. The second essay is devoted to the relation of the Gaon to the exilarch and to the constitution of the academies. These two subjects are teeming with intricate problems, and although Dr. Eppenstein is unable to arrive at new conclusions, he has treated them in all details, and drawn an able sketch of the conditions of the academies. The centre of Jewish learning having in that period been shifted to Babylon, Palestine was almost entirely neglected by the majority of historians. It was usually assumed that the latter country was practically devoid of scholars. This view has proved quite untenable, and Dr. Eppenstein in his third essay describes the spiritual activity in Palestine till the beginning of the tenth century. Sacred poetry, the Masorah, and a number of Midrashim were products of Palestinian activity during these centuries. Dr. Eppenstein rightly observes that although Halakah was not much

cultivated in the Holy Land, that country was the home of the Midrash with its poetic imagery (p. 24). About the paṭṭān R. Phineas, I should like to remark that in a Genizah fragment at the Dropsie College there is a hymn by Phineas ha-Kohen. There are also a few hymns by Phineas Rosh Yeshibah in the Bodleian Library (see Neubauer and Cowley, *Catalogue*, vol. II).

As Saadya may be considered the most prominent Gaon whose many-sided activities and numerous writings place him above all others who filled the office of Gaonate, a considerably long essay is devoted to him. All phases of his activity are touched upon by Dr. Eppenstein. Apart from the complete works by that Gaon, like his philosophic treatise *al-Amānāt wal-ʾItikādāt* and his Arabic translation of the Pentateuch that have never been lost sight of, there were recently discovered a considerable amount of fragments which shed a flood of light upon his life and works. The most notable are Harkavy's *Studien und Mittheilungen*, vol. V, and Schechter's *Saadyana*. Owing to the multiplicity of subjects that Dr. Eppenstein discusses, he overlooked a few points to which it may not be out of place to draw attention. While treating of Saadya's *Reshut* to his *Azharot* (p. 122) the author states that it contained twenty-four sections and that eight of them have been preserved in Samuel b. Ḥofni's commentary (*Saadyana*, p. 43). As a matter of fact twenty sections have been preserved in a fragment by an unknown writer which was published in *JQR.*, VI, p. 705. I have proved elsewhere (*JQR.*, New Series, IV, 539 ff.) that it is not by Ḥefes b. Yasiah as surmised by Neubauer, and that there is no evidence to connect it with Samuel b. Ḥofni as was suggested by Marx in Ginzberg's *Geonica*, vol. I, p. 179. That fragment gives the number of sections as twenty-five. This seems to be a more reliable reading, since an illegible ה may be read as ו, while the opposite case is less likely.—Since Harkavy published Saadya's *Sefer ha-Galui* it was customary to assume that it consisted of ten chapters, and Dr. Eppenstein repeats this statement (p. 129 f.). That this is an impossible view may be seen from Saadya's calling the chapters אַנְרֵאִין instead of אַבְנֵאִים. Furthermore, he says that

the first seven chapters are special, while the remaining three are general and extend over the entire book. How this can be achieved passes my comprehension. It is, however, quite obvious that the book contained seven chapters, which are actually enumerated. But the author had ten objects, or aims, for writing that book. Seven objects were explained in the seven chapters, and the remaining three had no separate chapters, but were made evident throughout the book. See Bacher, *JQR.*, XII, 703.—I do not know on what authority Dr. Eppenstein asserts that the people of Kairuwān translated שְׁעָרֵי the Christian's book into Hebrew (p. 132). Even Harkavy's defective text does not admit of such an interpretation. What Saadya says is that the people of Kairuwān composed a book relating that which befel them at the hands of that Christian. Now that we have a more correct copy of that text (see H. Malter, *JQR.*, New Series, III, 487 ff.), we know that שְׁעָרֵי was a misreading for שְׁנוּרֵי. The last word no doubt represents Hebrew שְׁנַעְרֵי, as Saadya translates שְׁנַעְרֵי by שִׁנּוּר (see the suggestion recorded in my name, *l.c.*, p. 489, note 5), and probably designates a certain town, just as אֲשׁוּר is restricted to Mosul.

The fifth essay deals with the narrative of the four captives that is given by Abraham b. Daud in his סֵדֶר הַקְּבִלָּה. The authenticity of this narrative has long ago been questioned, and an able monograph was written on it by Israel Lewy of Breslau. Dr. Eppenstein relegates this story to the domain of legend. He presents an attractive and interesting sketch of the state of Jewish culture in Egypt, Spain, and Italy at that time, and is thereby led to the conclusion that the four supposed captives were scarcely needed to disseminate Jewish learning in those countries. Moreover, he points out the impossibility that any of the captives hailed from Babylon. According to his theory, Shemiah cannot be regarded as a captive, and he very likely belonged to a family that had for generations made Egypt its home. Hushiel came on his own accord to Kairuwān, and was probably a native of Southern Italy. Moses b. Hānok might easily have been a native of Spain. As for the fourth captive there is no need to speculate

about his origin, since even his name was not preserved. This theory dispels the beautiful illusion that at the decline of the Gaonate, Providence caused four Babylonian scholars to be taken captive, so that they might spread the knowledge of the Talmud in the diaspora. Dr. Eppenstein may be right, but he has failed to account for the origin of the legend for which Abraham b. Daud cannot be made responsible, since he does not know the name of the fourth captive.

Die Abfassungszeit der Baraita der 32 Normen für die Auslegung der heiligen Schrift. Eine Untersuchung. Von DR. LEO BARDOWICZ, Rabbiner der israel. Kultusgemeinde in Mödling. Berlin: M. POPPELAUER, 1913. pp. vi + 110.

Of the numerous problems that tax the mind of the investigator of rabbinic literature the one relating to the authorship of certain books is not the least perplexing. Tradition in the majority of cases cannot be relied upon, as it is usually the result of doctrinal speculations. A glaring illustration of this point is the Baraita of the thirty-two principles for the interpretation of Scripture which was ascribed by tradition to R. Eli'ezer b. R. Josë ha-Gelili. As no external argument could be brought against this tradition, modern scholars saw no reason for doubting its validity. It was only by a thorough-going investigation of this Baraita that H. Katzenellenbogen as early as 1822 pointed out, in his commentary on this text, that the illustrations following the principles were later additions. This was easily proved by the fact that some of the illustrations are taken from amoraic interpretations. But even Katzenellenbogen and all other scholars after him took it for granted that R. Eli'ezer was the author of this Baraita in its original form which contained a mere enumeration of the thirty-two principles. By a minute and careful study, however, Dr. Bardowicz was enabled to prove this opinion untenable. He analyses every principle with great erudition and critical acumen, and points out that twenty-eight of these principles were known to Tannaim who preceded R. Eli'ezer, while the remaining four are

of much later date. Many a reader will be surprised to find that two of these principles were quite unknown even in the amoraic period. These principles are nine (דרך קצרה *elliptical expression*, that is to say, some words are missing in the Bible, and are to be supplied in the interpretation) and eleven (סדור שנהלל *a different marking of verses*). The illustrations given in the Baraita for these two principles are very interesting even for modern biblical exegesis. But Dr. Bardowicz rightly observes that these verses are interpreted quite differently in rabbinic literature. Furthermore no talmudic or midrashic example can be cited where a biblical verse is interpreted in accordance with either of these principles. The attempts made by Katzenellenbogen and Einhorn to reduce some interpretations to these two principles are ably refuted by Dr. Bardowicz.

The circumstance that this Baraita is nowhere quoted in amoraic literature militates against its tannaitic authorship. To this may be added the significant fact that R. Sherira, who in his Epistle describes the methods of interpretation employed by the Tannaim and Amoraim, does not mention this Baraita. This *argumentum ex silentio* has peculiar force in this connexion, and Dr. Bardowicz employs it very skilfully. For Sherira does mention a number of these principles, and had he known them as one collection, he would have referred to the Baraita itself, as he does in the case of the thirteen principles of R. Ismael.

In consequence of these weighty considerations the conclusion forces itself upon us that R. Eli'ezer could have been neither the author nor the redactor of this Baraita in any shape or form. These negative results of Dr. Bardowicz's investigation appear to be well grounded, and are an important gain for our knowledge of rabbinic literature.

But Dr. Bardowicz is not content with mere negative results, and the second part of his monograph is devoted to the attempt to ascertain who the real author of this Baraita is. This is naturally a very arduous task; but Dr. Bardowicz's insight and originality stand him in good stead. The conclusion he arrives at is startling and fascinating at the same time. He first proceeds

to prove that the collection and final redaction of these principles took place during the gaonic period. For it is during the later years of that period that the ninth and eleventh principles were first employed. Direct and positive evidence for this view is furnished by an obscure passage occurring in the famous commentary by a pupil of Sa'adyā on the Books of Chronicles. In one of his notes this commentator remarks ובענין דברים הללו מעיני הכתובים ובספר היוכלות שהביא אלפיומי רב סעדיה גאון מספרי במדות חכמים (ed. Kirchheim, p. 36). No satisfactory identification has hitherto been suggested of these two books. After minutely examining the opinions expressed by Kirchheim, who edited this commentary, and by L. Donath who described the Rostock MS. in Berliner's *Magazin* I, Dr. Bardowicz is led to the almost inevitable conclusion that by מדות חכמים the commentator meant the Baraita of the thirty-two principles. For it is by a careful study of the contents of this Baraita that the commentator is enabled to solve many difficulties in biblical exegesis. Incidentally Dr. Bardowicz throws a good deal of light upon obscure passages occurring in this commentator's introduction where this Baraita is more explicitly referred to. We accordingly have the authority of a writer of the tenth century that the thirty-two principles are the product of the gaonic academies, and this satisfactorily accounts for the circumstance that R. Sherira does not mention it in describing the hermeneutic principles employed by the Tannaim and Amoraim.

The same commentator informs us that Sa'adyā not only copied the books of the academies, but also introduced important innovations הנאון רב סעדיה חקף שניתן אסור בבית שומר, שלש עשרה שנה נאסר בבית המלכים, והעתיק מספרי הישיבה, וחידש דברים שלא (שמעה און). Dr. Bardowicz accordingly suggests that the innovations consisted in the ninth and eleventh principles. Apparent support for this assumption may be found in the appendix of this monograph where it is shown that Sa'adyā employed each of these principles about fifty times. Now this list, which is by no means exhaustive, strikingly contrasts with the established fact that, as far as it is known to us, no exegete before Sa'adyā

made use of these principles. Dr. Bardowicz is also of opinion that Sa'adyā, besides being the originator of these two principles, supplied many illustrations for the remaining thirty.

In spite of the clever combinations of which Dr. Bardowicz made use, few scholars will be willing to follow him as far as that. Sa'adyā is one of the few fortunate Jewish writers whose lives and literary activities are fairly well known, and it is indeed very strange that no allusion to this work is made by himself or any other writer. In his lengthy prefaces to his Arabic translation of the Bible he had occasion to refer to his discovery of two very important principles of biblical exegesis. Sa'adyā was by no means a man who hid his light under a bushel, and was therefore not prevented by modesty from referring to his own works. Moreover Sa'adyā's pupil would certainly not have omitted to state that the *מדות הכמים* was the work of his master. It seems more plausible to assume that this Baraita is a gaonic composition of which Sa'adyā made extensive use. It is inaccurate to consider Sa'adyā the first biblical exegete, as is done by Dr. Bardowicz. Ibn Janāḥ in his *Kitāb al-Lumā'* (ed. Derenbourg, p. 15) says that he made use of the works of rational commentators like Sa'adyā, Sherira, Hai, Samuel b. Ḥofni, Ḥefeṣ Rosh Kalla, and other commentators and Geonim. Now the Geonim referred to must be those who lived before Sa'adyā, since his successors who applied themselves to the study of the Bible are explicitly named.

At the end of his monograph Dr. Bardowicz advances the hypothesis that the *ספר היובלות* mentioned in the commentary on Chronicles is not the Book of Jubilees, but a chronological book which was a sort of supplementary part to the *מדות הכמים*. The entire work thus consisted of two parts, one dealing with methodology and the other with chronology, and was a kind of introduction to the Talmud. This, however, requires further confirmation.

B. HALPER.

Dropsie College.



[illegible]

三

[illegible]

וברב חסד
 לבד מן ה' וכל חסד
 יפה לעולם ב' ויז' א' ויז'
 ויז' ב' ויז' א' ויז'
 ויז' א' ויז' ב' ויז'
 ויז' ב' ויז' א' ויז'
 ויז' א' ויז' ב' ויז'
 ויז' ב' ויז' א' ויז'

FIG. 1. MAIMONIDES' AUTOGRAPH RESPONSUM IN THE LIBRARY OF THE CAIRO JEWISH COMMUNITY

AN AUTOGRAPH RESPONSUM OF MAIMONIDES

BY B. HALPER, Dropsie College.

DESPITE the great popularity enjoyed by Maimonides, a considerable portion of his works still awaits scientific treatment. Some of his responsa have long been known in a poor Hebrew translation made by Mordecai Tama,¹ and although the Arabic original has happily been preserved, only a few of them have hitherto been published in that language.²

These responsa, even in the faulty Hebrew translation, are of great importance from many points of view. They contain valuable material for the study of Halakah. The historian will find in them a reflection of that period which was one of the most active in the development of Jewish life. They are also of some interest to the student of Jewish-Arabic, as Maimonides, his ungrammatical construction notwithstanding, is one of the best writers in that dialect. For even this short responsum contains a peculiar expression which is unknown in the works of other writers.³ It is therefore to be hoped that the entire collection of these responsa, the manuscript of which is at present, I believe,

¹ *Pe'er ha-Dor* (Amsterdam, 1765) and *Kobez Teshubot ha-Rambam* (Leipsic, 1859).

² See Geiger, *Melō Hofnayim*, pp. 54-80; G. Margoliouth, *JQR.*, XI, pp. 534-550; I. Friedlaender, *JQR.*, New Series, V, pp. 1-15. Margoliouth edited twelve responsa, two of which were autographs.

³ See below, note 9.

in the possession of Dr. Simonsen of Copenhagen,⁴ will be edited as soon as possible.

The autograph responsum herewith published is not included in the *Pe'er ha-Dor* and *Ḳobes Teshubot ha-Rambam*, but I cannot say with certainty whether it is found in the Arabic collection or not. It comes from the Cairo Genizah, and is now stored up in the library of the Jewish community of that city. A photographic reproduction of it was sent by Mr. Jack Mosseri to President Schechter, who was kind enough to hand it over to me for publication. For this act of courtesy I beg to express my most cordial thanks.

The manuscript is undated, and the name of the person who addressed the inquiry to Maimonides is not given. Two questions, akin to one another, are asked in this letter. Two litigants reside in different cities, and the plaintiff desires to have a representative appointed to take his part. Should this request be granted to him according to the Jewish law, or not? Then, what is the law in the case they both reside in one and the same city?

Maimonides in his trenchant and precise manner replies that according to the Talmud the Rabbis considered such a procedure blameworthy. A representative should only be appointed when the plaintiff is prevented from coming to court through illness, or because he resides in another city, or on account of a similar cause. Otherwise both litigants must personally appear in court.

Incidentally this decision throws light upon a statement made by Maimonides in his *Code*. In *Hilkot Sheluḥim* 3, 5 he asserts that a power of attorney is illegal. R. Abraham

⁴ Comp. *JQR.*, XII, p. 134.

b. David in his *Refutations* remarks that this prohibition applies only to the case when both litigants reside in one and the same town, and are able to come personally to court. This responsum proves that Maimonides meant his decision to be understood in that way.

The manuscript is here reproduced with all its peculiarities. It is to be observed that Maimonides uses diacritical marks, while the inquirer disregards them entirely. My Hebrew translation follows the original as closely as the Hebrew idiom allows.

ARABIC TEXT

Recto.

[מא ת] קול הדרת יקרת צפירת תפארת מ[ר] נא ורבנא
 משה הרב הגדול בישראל ישמרה⁵ אלהינו ויברכה
 פי שבצין מן ישראל קויין סויין לאחדמא ענר א[ל]
 אכר חק וכל מנהמא סאכן פי בלד⁶ טלב אלואחד
 5 מנהמא יוכל⁷ לה וכיל עלי אסתכלאין חקוקה מן
 אלאכר הל יוגב לה אלשרע דלך אם לא ואן כאנא
 גמיעא סכאן פי מדינה ואחדה ואראד אלטאלב
 אן יוכל לה וכיל יכאצם ענה וינאזע ויסתכלין
 חקוקה הל לה דלך אם לא תפתינא הדרת אדוננ[ו]
 10 במוגב אלשרע פי דלך ושכרה כפול מן השמים

⁵ The pronominal suffix is Arabic, while the word is Hebrew. The same is the case with *ויברכה* (recto, l. 2) and *ושכרה* (l. 10).

⁶ This is hardly explicit. The writer wishes to say *in different cities*. Maimonides (verso, l. 1) is more explicit.

⁷ The omission of *אן* after *טלב* and similar verbs is quite common in Jewish-Arabic, as well as in post-classical texts of general Arabic.

אלנואב

אלובאלה מדמומה לקולחם⁹ ואשר לא טוב
 עשה וכו' זה הבא בהרשאה וכו' אלגיר
 ילחן⁹ ען צאחבה בחננה מנהי נדא
 15 עלי מא שהר מן הרובהם מן ערכי הדיונים
 ובחשב הדה אלמקדמאת לא יזו ענדי
 אן יוכל וכל אלא לצרורה אמא לכו

Verso.

אלטאלב פי בלד ואלמטלוב פי
 בלד אכר או לכו אלטאלב מריץ
 או מא אשבה דלך מן אלאעדאר
 אמא בארתפאע אלאעדאר¹⁰ פלא
 5 וזה ללובאלה בל יחצר אלכצמאן
 לבית דין אד ולא מאנע לאחדהמא
 וכתב משה.

HEBREW TRANSLATION

Recto.

מה תאמר הדרת יקרת צפירת תפארת מרנא ורבנא
 משה הרב הגדול בישראל ישמרהו אלהינו ויברכהו
 בדבר שני אנשים מיישראל השיום בחזקתם, ויש לאחד מהם
 משפט אצל חברו, וכל אחד מהם דר בעיר אחרת, והאחד מהם

⁹ Shebu'ot 31 a.

⁹ ילחן is to be construed with בחננה. It is fourth conjugation, and denotes *he makes clear, explains*. This construction with its peculiar meaning is nowhere else recorded. ען signifies *for, in behalf of*. Comp. the expression نأب عني *he represented me*. See also Wright, *Arabic Grammar*, II, p. 139 D.

¹⁰ The omission of the dot over ך is due to an oversight.

5 בקש למנות לו מרשה שיוציא את המניע לו
 מחברו; האם מצריך הדין את הדבר הזה או לא? ואם שניהם היו
 דרים יחדו בעיר אחת, ובקש התובע
 למנות לו מרשה שיטען וישפט בשבילו ויוציא
 את המניע לו מחברו, היוכל לעשות כזה או לא? תבאר לנו הדרת אדוננו
 10 את חיוב הדין בזה ושכרו כפול מן השמים.

התשובה.

ההרשאה מגנה, כמו שאמרו: "ואשר לא טוב
 עשה זה הבא בהרשאה," ואסור חמור
 הוא לאיש אחר לברר את טענותיו בשבילו,
 15 כמו שידוע שברחו חכמינו מערכי הדינים,
 ועל פי ההקדמות הללו אסור, לפי דעתו,
 למנות מרשה, אלא כשיש הכרח בזה, כגון שהיה

Verso.

התובע בעיר אחת והנתבע בעיר
 אחרת, או כשהיה התובע חולה,
 וכיוצא בזה מן האמתלאות.
 אבל כשאין שום אמתלא כזו, אין
 5 מקום להרשאה; אלא שני בעלי הדין יבואו
 לבית דין, הואיל ואין מניעה לאחד מהם.
 וכתב משה.



NOTES ON JUDEO-GERMAN PHONOLOGY

BY E. SAPIR, Ottawa.

A GRATIFYING phase of Germanic study in recent years is the constantly increased attention paid to the modern spoken dialects. That the dialects still spoken by the rural population of Germany, for instance, have often preserved archaic features in vocabulary, phonology, morphology, and syntax, where the literary 'Gemeinsprache' is less conservative, is well known. Thus, attention may be called in passing to the fact that many of the dialects in Middle and Upper Germany still observe the distinction in pronunciation between short open *e* (<O.H.G. and M.H.G. *ë*, as in *gëban*, *gëben*) and short close *ɛ* due to *i*-umlaut of *a* (as in O.H.G. *bëzziro*, cf. Gothic *batiza*), while, as is well known, the 'Gemeinsprache' has levelled the distinction completely. By such archaic features the modern dialects are often able to throw a great deal of light on the history of the language; moreover, they are generally more easily handled, from the purely linguistic standpoint, than the literary monuments of Old and Middle High German, in that they are immediately accessible to study and are not distorted, particularly in regard to phonetics, by orthographic imperfections.

While the German dialects now spoken within the confines of Germany, Austria, and Switzerland are being diligently and profitably studied, little has as yet been

done in the way of scientifically examining the various dialects spoken by the Jews of Lithuania, Russian Poland, Galicia, southern Russia, and Roumania.¹ When one recollects that these Judeo-German or 'Yiddish' dialects have, since the beginning of the modern period (in the early part of the sixteenth century), developed in comparative isolation from the main body of German dialects and that they have been subjected to the influence, chiefly lexical, of the Slavic vernaculars (Polish, Russian, and Little Russian) on the one hand, and of the sacred Hebrew tongue on the other, it becomes clear that we are here dealing with a complex of linguistic conditions that must prove highly instructive to the student of language.²

¹ Besides Leo Wiener's two articles on Judeo-German in *The American Journal of Philology*, XIV, pp. 41-67 and 456-82 (phonologically unreliable because modern literary German, instead of Middle High German, is taken as the point of departure) and L. Sainéan's study ('Essai sur le Judéo-Allemand et spécialement sur le dialecte parlé en Valachie') in *Mémoires de la Société de Linguistique de Paris*, XII, pp. 90-138, 176-96 (treats of Roumanian Judeo-German), we have Jacob Gerzon's *Die jüdisch-deutsche Sprache, eine grammatisch-lexikalische Untersuchung ihres deutschen Grundbestandes* (Frankfurt am Main, 1902), treating mainly of the Lithuanian Judeo-German of Homel (Government of Mohilev). Valuable as Gerzon's work is, it is much less satisfactory in its treatment of the phonology (pp. 20-35) than of the morphology and syntax; in particular Gerzon has failed to point out the absence of quantitative differences in the vowels of stressed syllables and the development of voiced stops in final position, both of which are characteristic features of Judeo-German when contrasted with other High German dialects. The present study, though late to appear, was completed before access was had to Gerzon's work, so that the material here presented is the result of independent investigation. The dialect here treated is the form of Lithuanian Judeo-German spoken in the Government of Kovno. Further references to works on special points in Judeo-German may be found in L. Wiener's *History of Yiddish Literature in the Nineteenth Century* (New York, 1899), pp. 12-24 (chapter on 'The Judeo-German Language').

² The following taken from Grätz's *Geschichte der Juden* (vol. 9, p. 64)

The conditions are, in fact, not dissimilar to those that obtained in the development of the English language— isolation from the main body of the vernacular and considerable foreign influence. On the whole, the student of Judeo-German will be inclined to see a less extensive foreign influence in the case of Judeo-German than in that of English; the basis has remained thoroughly German, the foreign accretions and influences are, at best, of only secondary importance.

Before proceeding to the sketchy phonological observations I have to offer, it may not be inappropriate to call attention, by way of illustration, to some of the more interesting archaic features that Judeo-German presents. In vocabulary many Middle High German words now obsolete or, at any rate, not in common use in literary German, have been preserved in full vigour by Judeo-German. Such are *ēdm* 'son-in-law' (< M.H.G. *eidem*); *šver* 'father-in-law' (< M.H.G. *swēher*); *šnur* 'daughter-in-law'

will serve as historical basis of the above remarks. Grätz's statements apply to the period 1496–1525. 'Aber nicht bloss deutsche Talmudkünde haben die jüdisch-deutschen Flüchtlinge nach Polen verpflanzt, sondern auch die deutsche Sprache—in ihrer damaligen Beschaffenheit; sie impften sie den eingeborenen Juden ein und verdrängten nach und nach aus deren Munde die polnische oder ruthenische Sprache. Wie die spanischen Juden einen Teil der europäischen oder asiatischen Türkei in ein neues Spanien verwandelt haben, so machten die deutschen Juden Polen, Littauen und die dazu gehörigen Landesteile gewissermassen zu einem neuen Deutschland. . . . Mehrere Jahrhunderte hindurch zerfielen daher die Juden in *spanisch Redende* und *deutsch Sprechende*, gegen welche die Italiens als eine wenig zählende Klasse verschwand, da auch hier die Juden Spanisch oder Deutsch verstehen mussten. . . . [Die polnischen Juden] verehrten [die deutsche Sprache] wie ein Palladium, wie eine heilige Erinnerung, und wenn sie sich auch im Verkehr mit Polen der Landessprache bedienten, im trauten Familienkreise, im Lehrhause und im Gebete behielten sie das Deutsche bei. Sie galt ihnen nächst dem Hebräischen als eine heilige Sprache.'

(< M.H.G. *snur*); *tor* 'dare' (< M.H.G. *tar*, *gitar*); *zéggr* 'clock' (< M.H.G. *seiger*); *haint* 'to-day' (< M.H.G. *hînt* 'this night'); and many others. In phonetics, Judeo-German has, for instance, not levelled M.H.G. *î* and *ei* into *ai*, but has kept them apart as *ai* and *e* respectively; e.g. *vais* 'white' and *ix vês* 'I know' (< M.H.G. *wîz* and *ich weiz* respectively; contrast modern literary German *weiss* for both). In the case of *zamd* 'sand' an Indo-Germanic *m* has been preserved that has in practically all other Germanic dialects been assimilated to *n*—cf. Greek *ἄμμος* 'sand' < **samadhos*. A large number of archaic features are found also in the morphology. The old dative singular in *-en* of weak feminines (M.H.G. *der zungen*, *der mitten*, but modern German *der Zunge*, *der Mitte*) is preserved in stereotyped phrases like *in dr mitn drin* 'right in the midst of it'. The M.H.G. feminine noun *heit* 'manner' preserved in modern German only as derivative suffix in abstract nouns (e.g. *Kühnheit*, *Menschheit*) survives in Judeo-German in adverbial genitives in *-g* (*hét* (e.g. *blindg ét* 'blindly' < *blinder heit*). The preterito-present verb M.H.G. *touc* has in modern German been levelled to the great class of other verbs, while Judeo-German still has *er tég* 'he is of account' (contrast modern German *er taugt*). The old imperative *lê* 'let' survives in phrases like *ló mir* (or *ló mix*) 'let me' (contrast modern German *lass mich*). In syntax, the double negative may be mentioned as an archaic feature, though something should here be perhaps ascribed to Slavic influence.

It would, however, be erroneous to suppose that the Judeo-German dialects are on the whole more archaic than modern literary German. They are not. In morphology particularly great simplification has taken place. The

preterite has disappeared in favour of the periphrastic perfect (e.g. *er hot g'zén* = *er sah*). The dative and accusative (at least in Lithuanian Judeo-German, which dialect alone is here considered) have disappeared as such and have been merged into an objective case, partly dative and partly accusative in form (e.g. *er gít mir* = *er gibt mir*; *er zét mir* = *er sieht mich*). The ending *-er* preceded by umlaut and umlaut alone have greatly spread as plural signs (e.g. *plétsy* 'places'; *teg* 'days' < **tége* for *tage*). The umlaut of the second and third persons singular of strong verbs has in most cases been levelled out (*er zét* = *er sieht*; *er fált* = *er fällt*; *er lét* = *er läuft*, cf. *ix lét* = *ich laufe*). A number of weak verbs have followed the analogy of strong verbs in their participle (e.g. *g'krógn* 'obtained' as participle of *krígn* by analogy of such verbs as *fardrísny* — *fardrósn*; *g'sótny* = *geschüttet*; *óngitsundny* = *angezündet*). The third person reflexive has been generalized for all persons and numbers (e.g. *ix zets mix* = *ich setze mich*)—this is undoubtedly due to Slavic influence. There are many other levellings and analogical developments that have taken place in Judeo-German.

Several interesting special developments that have taken place are: a gerund of adverbial force in *-dig*, which can be formed from any verb by suffixing this syllable to the infinitive (e.g. *er vènt léfndig* 'he cries while running'; these forms in *-dig* are doubtless based on M.H.G. participial forms in *-ende*, perhaps influenced by *lebendic* 'alive'); a monosyllabic abstract noun which can be formed from any verb and which is used in phrases like *er git a šmék* 'he gives a smell, he smells (momentaneously)'; the transfer of most neuter nouns to the feminine gender (e.g. *di hoiz* 'the house' < M.H.G. *das hūs*;

a similar development has taken place in Lithuanian, in which old neuters have generally become masculines, e. g. *árklas* m. 'plough' as contrasted with Latin *arātrum* and Greek *ἄροτρον*).

In phonology two great revolutions have taken place in Judeo-German. In the first place, the quantitative vocalic differences that are so important in modern German (contrast *siech* with *sich*, *schal* with *Schall*, *Sohn* with *Sonne*, *Musse* with *muss*) are not found in Judeo-German. All accented vowels are of practically uniform length—approximately midway in quantity between the German long and short vowels; the quality of *i* and *u* is that of the German long *i* and *u*, in other words close. Thus, the vowel of Judeo-German *zix* 'himself' is pronounced like that of German *siech*, as far as quality is concerned, but with a shorter quantity (yet not so short as in German *sich*); correspondingly with Judeo-German *u*. Judeo-German *o* is in quality identical with the German *o* in *voll*; there are two *e*-vowels, an open *e* (as in German *Mensch*) and a close *e* (as in German *geben*, barring quantity); *a* does not differ in quality from the normal German *a*. We might put the matter thus: there are no long *i*, *u*, *o*, *a*, *e* in Judeo-German. This radical difference in phonetic basis between Judeo-German and modern standard German I am inclined to explain by Slavic influence (the same lack of quantitative differences in accented vowels obtains in Russian and Polish; thus, Russian accented *i* is medium in quantity between German *ī* and *i*).

The second phonetic revolution referred to is the rise of final voiced stops and spirants. In Middle High German and its modern representatives a voiced (lenis) stop or spirant becomes voiceless (fortis) when final (M.H.G. *tages*, *tac*;

modern German *Todes*, *Tod*, i.e. *tōt*). In Judeo-German, however, a final sonant is not pronounced as surd, but preserves its sonant character; thus, *zōgn* 'to say': *ix zōg* 'I say'. I do not believe that sonants when final have really remained sonant. I prefer to explain the phenomenon by analogy. Original M.H.G. *tac* (= *tak*) *tages tage* was levelled to *tag tages tage*; when final *-e* later dropped, the *g* could no longer become surd, hence we have Judeo-German *tog* corresponding to Modern German *tak* (or *tax*)—*tāga* (or *tāya*). Similarly, *veg* 'road' < M.H.G. *wēc* by analogy with *wēges wēge* (but modern German *vēx'*—*vēgas* or *vējās*). That this explanation is correct is indicated by such words as *op* 'away' < M.H.G. *abe*, where no paradigmatic levelling could take place and where final *b* became *p*, according to regular German phonetic law; cf. also *avék* 'away' (= German *weg*) as adverb with *veg* 'road' as noun (the adverb was not associated with the noun, hence suffered no levelling). In any event, the great frequency of final voiced stops and spirants in Judeo-German is a feature that is entirely foreign to the main body of German dialects but is paralleled within Germanic by English and Swedish.

In the following is given in brief the development in Judeo-German of the Middle High German vowels and consonants, no claim of absolute completeness of treatment being made. The main lines of change must suffice.

VOWELS.

1. M.H.G. *a*.

- a. In closed syllables it remained unchanged: *gast* < M.H.G. *gast*; *vald* < M.H.G. *walt* (*wald*-); *ganz* 'goose' < M.H.G. *gans*; *hart* < M.H.G. *hart*; *az* < M.H.G. *als*; *ārbēt* < M.H.G. *arbeit*, *arebeit*; *bald* < M.H.G. *balde*; *land* <

M.H.G. *lant* (*land*-); *halz* < M.H.G. *hals*; *gang* < M.H.G. *ganc* (*gang*-); *naxt* < M.H.G. *naht*. In open syllables followed by *x* (originally geminated, O.H.G. *-hh-*) it also remained, as in modern German: *máxn* < M.H.G. *machen*; *láxn* < M.H.G. *lachen*.

- b. In originally open syllables (in some cases now secondarily closed) it became lengthened to \bar{a} (cf. modern German $\bar{a} < a$ in open syllables), which, falling in with original \bar{a} , developed to open *o*: *hōbn* < M.H.G. *haben*; *jōgn* < M.H.G. *jagen*; *vōgn* 'waggon' < M.H.G. *wagen*; *op* < M.H.G. *abe*; *nōmn* < M.H.G. *name, namen*; *fōt* < M.H.G. *vater*. Many cases of $o < a$ in originally closed syllables are readily explained by paradigmatic analogy: *tog* < *tac* (cf. *tage*). Original *tac täge*, pl. *täge* first developed to *tac täge*, *täge*, then, with consonantic levelling, to *tag täge*, *täge*; when $\bar{a} > o$, this series became *tag tōge*, *tōge*; vocalic levelling gave *tog tōge*, *tōge*; dropping of final unaccented *-e* would have reduced these forms to *tog tog*, *tog*, to avoid which umlaut as characteristic of noun plurals came in by analogy; as final result we have to-day nom. *tog*, dat.-acc. *tog*, pl. *teg*. Other examples of analogical $o < a$ in closed syllables are: *štot* < M.H.G. *stat*; *groz* < M.H.G. *gras*. In certain words *a* became lengthened before *r* to \bar{a} even in closed syllables; this \bar{a} also resulted in *o*: *gor* < M.H.G. *gar* (cf. modern German *gär*); *bort* < M.H.G. *bart*; *bōrvəs* 'barefoot' < M.H.G. *barvuoꝛ*; *tor*, *torst* '(he) dares, (you) dare' < M.H.G. *tar*, *tarst*. More difficult to explain are *dos* < M.H.G. *daꝛ* and *vos* < M.H.G. *waꝛ*; perhaps these forms arose in combinations like *daꝛ ist* (originally syllabified, before 'fester Einsatz' developed before *ist*, as *daꝛist*) > *dāꝛ ist* > *dos iz*.
- c. Cases of $e < a$ are probably only apparent. *meg* (= modern German *mag*) is probably not directly developed from M.H.G. *mac*, but is due to analogy of 1st and 3rd person plural present indicative and infinitive *mēgen* (upper German) > Judeo-German *mēgn* (see 4. below). *ken* (=

modern German *kann*) is similarly not directly developed from M.H.G. *kan* (> Judeo-German parallel form *kon*, see b above), but is due to analogy of *kennen* 'to know' > Judeo-German *kénng*.

2. M.H.G. *ā*.

- a. This sound regularly became *o*, which is in no respect phonetically different from *o* < M.H.G. *o* or M.H.G. *a* in open syllables: *on* 'without' < M.H.G. *âne*; *do* < M.H.G. *dâ*; *nox* < M.H.G. *nâch*; *hor* 'hair' < M.H.G. *hâr*; *jor* < M.H.G. *jâr*; *mol* < M.H.G. *mâl*; *hot* 'has', *host* 'hast', *hot* '(ye) have' < M.H.G. *hât*, *hâst*, *hât*; *blo* 'blue' < M.H.G. *blâ*; *gro* 'gray' < M.H.G. *grâ*; *lo* 'let!' < M.H.G. *lâ*; *gîrótn* < M.H.G. *gerâten*; *nont* 'near' < M.H.G. *nâhent*; *mon* < M.H.G. *mân*, *mâhen* 'Mohn'. Note that Judeo-German sometimes preserves *o* as reflex of M.H.G. *ā* where modern German has shortened *ā* to *a* (contrast Judeo-German *nox* with modern German *nach*; *host*, *hot* with *hast*, *hat*).
- b. It is shortened to *a* (as in modern German) before *xt*: *gîdâxt* < M.H.G. *gedâht*; *gîbrâxt* < M.H.G. *gebrâht*.
- c. In *vu* 'where', *ā* of M.H.G. *wâ*, after being labialized to *ō* (cf. modern German *wo*), became still further labialized to *u*.

3. M.H.G. *ē*.

- a. This sound normally remained as open *e*: *erd* < M.H.G. *ērde*; *ber* 'bear' < M.H.G. *bēr*; *velt* < M.H.G. *wêrlt*; *šlext* < M.H.G. *slēht*; *feld* < M.H.G. *vêlt* (*vêld-*); *hêlfng* < M.H.G. *hêlfen*; *zeks* < M.H.G. *sêhs*. It is to be particularly noted that *ē* in open syllables did not, as in most dialects, lengthen to *ē* (> Judeo-German *ē*), but remained open *e*: *lêbng* < M.H.G. *lêben* (contrast modern German *leben*, i.e. *lêbn*); *bêzm* < M.H.G. *bêseme* 'Besen'; *nêmnng* < M.H.G. *nêmen*; *lêznng* < M.H.G. *lêsen*; *bêtnng* 'to ask for' (= modern German *bitten*) < M.H.G. *bîten* 'bitten (um Almosen)'; *gêbng* < M.H.G. *gêben*.
- b. M.H.G. *-êhe-* regularly contracted to *e* (not, as in modern

German, to $\bar{e} > e$): *tsen* 'ten' < M.H.G. *zēhen*; *zen* 'to see' < M.H.G. *sēhen*; *šver* 'father-in-law' < M.H.G. *swēher*.

- c. Before *r* plus consonant, \bar{e} regularly became broadened to *a* (cf. English *farm* < Middle English *ferm*): *barg* 'hill, mountain' < M.H.G. *bērc* (*bērg-*); *harts* < M.H.G. *hērze*; *fārtsn* 'to break wind' < M.H.G. *vērzen*; *vārfn* < M.H.G. *wērfen*; *štārbn* < M.H.G. *stērbēn*; *varg* (e.g. *grīnvarg* 'green stuff, vegetation') < M.H.G. *wērch*, *wērc* (modern German *Werg* 'tow'). *e* remains, however, in *erd* 'earth' < M.H.G. *ērde*.
- d. \bar{e} appears as *i* in *bīln* 'to bark' < M.H.G. *bēllen*. This may be due to *i* of M.H.G. singular present indicative *bille*, *billest*, *billet*, though ordinarily *e* is generalized in Judeo-German (cf. *helft* = modern German *hilft*).

4. M.H.G. \bar{e} (*i*-umlaut of *a*).

- a. In originally closed syllables this sound fell in, as in modern German, with *e* < M.H.G. \bar{e} . Examples of *e* < \bar{e} are: *end* < M.H.G. *ende*; *bēs* < M.H.G. *bēzzer*; *menš* < M.H.G. *mēnsche*; *s vēnt zix* 'it depends' (= *es wendet sich*) < M.H.G. *wēnden*; *ēpl* 'apple' < M.H.G. *ēpfel* (plural of *apfel*, but also used as singular; cf. Kluge's remark: 'in Schwaben, der Schweiz und der Oberpfalz ist das plurale *Äpfel* Singularform geworden'); *šmēkn* 'to smell' < M.H.G. *smēcken* 'to taste, to smell' (Kluge remarks: 'die Bedeutung "riechen" wahren das Alemannische und Baierische, auch das Hessische teilweise').
- b. M.H.G. *ēhe*, like *ēhe*, contracted to *e*: *trer* 'tear' < M.H.G. *trēher* (singularized plural of *traher*; modern German *Thräne* is similarly originally plural, M.H.G. *trēhene*, of M.H.G. *trahen*).
- c. \bar{e} , like \bar{e} , seems to have been broadened to *a* before *r* plus consonant in *ārbās* 'pea' < M.H.G. *ērweiz* (modern German *Erbse*); parallel M.H.G. *arweiz* would probably have resulted in **ōrbās* rather than *ārbās* (see 1. b above). Note *ferd* 'horse' < M.H.G. *pfārt* (*pfārd-*).

d. *ê* is preserved as *ɛ* (close quality as in French *été*) before *ɣg*, *ɣk*: *bréɣɣn* 'to bring' < M.H.G. *brēngen* (Middle German dialectic form of *bringen*; cf. also Old Saxon *brengean* < **brangjan*); *déɣkɣn* < M.H.G. *dēnken*; *zix bɛɣkɣn* 'to long for', cf. M.H.G. *bēnge* (alongside of *bange*) 'Angst, Sorge'. *ɛ* < *ê* also appears in open syllables: *hébɣn* 'to lift' < M.H.G. *hēben*, *hēfen*; *kɛt* (plural *kéɣn*) < M.H.G. *kēten* 'Kette'; *tsɛɣlɣn* < M.H.G. *zēln*; *énikɣl* 'grandson' < M.H.G. *ēnikel*, *ēninkel*; *ɛdl* < M.H.G. *ēdel*; *héɣn* 'yeast' < M.H.G. *hēve*.

5. M.H.G. *ê*.

- a. This sound, while losing its length, retained its quality as close *ɛ*: *štɛn* 'to stand' < M.H.G. *stēn*; *ɣɛn* < M.H.G. *gēn*; *šnɛ* < M.H.G. *snē*; *vɛtɛg* 'pain' < M.H.G. *wētac* 'leiblicher Schmerz, Leiden, Krankheit' (literally 'woe-day'); *ɛdr* 'rather, sooner' (with inorganic *-d-*) < M.H.G. *ēr*. Before final *r*, *ɛ* is followed by glide *ɔ*: *zɛɔr* 'very' < M.H.G. *sêre*.
- b. It becomes broadened to open *e* before *r* in: *mer* 'more' < M.H.G. *mēr*; *eršt* < M.H.G. *êrst*.

6. M.H.G. *æ* (*i*-umlaut of *á*).

- a. This sound fell in completely with *ě*. Examples of *e* < M.H.G. *æ* are: *šver* < M.H.G. *swære*; *ver* < M.H.G. *wære* (1st and 3rd person preterite subjunctive of *sín*); *het* < M.H.G. *hæte* 'hätte'; *girétnnis* 'capable person, wohlgeratene Person' (*ret* < M.H.G. *ræt*, cf. *geræte* 'Rat, Überlegung').
- b. *æ* has become *i* in: *gix* 'quick' < M.H.G. *gæhe* (*gex*, which would be normally expected, is also found).

7. M.H.G. *i*.

- a. As in modern German, M.H.G. *i* has normally remained: *zix* < M.H.G. *sich*; *gífínn* < M.H.G. (*ge*)finden; *iz* < M.H.G. *ist*; *blind* < M.H.G. *blint* (*blind*); *fış* < M.H.G. *visch*.
- b. In *bárno* 'pear' < M.H.G. *bir* (genitive *birn*) and *karš* 'cherry' < M.H.G. *kirse*, this sound seems, like *ě*, to have become *a* before *r* plus consonant (see 3 c). Is *a* in these words

due to parallel dialectic *ë* (cf. Anglo-Saxon *peru*: O.H.G. *bira*; Lat. *cerasum*: O.H.G. *kirsa*)?

- c. *em* 'him' < M.H.G. *im(e)* is probably developed from parallel Middle German dialectic *em(e)*.

8. M.H.G. *ī*.

- a. As in modern German, M.H.G. *ī* regularly became diphthongized to *ai*: *taix* 'lake, creek' < M.H.G. *tīch* 'pond'; *zait* 'side' < M.H.G. *sīte*; *tsait* < M.H.G. *zīt*; *drai* < M.H.G. *dri*; *vāilē* '(short) while' < M.H.G. *wīle*; *main* < M.H.G. *mīn*.
- b. In *git* 'gives', *gīst* 'givest', *i* is shortened from *ī* (M.H.G. *gīt, gīst*), rather than directly derived from *i* of *gibet, gibest*.

9. M.H.G. *o*.

- a. In closed syllables *o* remained: *dort* < M.H.G. *dort*; *oks* < M.H.G. *ohse*; *fol* < M.H.G. *vol* (*voll*); *mórngn* < M.H.G. *morgen*; *ort* < M.H.G. *ort*.
- b. It has become *u* in *fun* < *von*. *u* of *zun* 'Sohn', *zun* 'Sonne', and *kúmn* 'kommen' is not derived from original *o*, but goes back to *u* (see 11 a).
- c. In originally open syllables *o* became lengthened, as in modern German, to *ō*, which then, falling in with original long *ō*, developed to *ē* (see 10 a): *ēb* 'ob' < M.H.G. *obe*; *évn* 'stove' < M.H.G. *oven*; *ēbn* < M.H.G. *oben*; *fégē* < M.H.G. *vogel*; *hézn* 'trousers' < M.H.G. *hosen*. In words where *o* of close and *o* of open syllables varied paradigmatically, older *o*: *ē* (*o*: *ō*) was levelled out to *ē* (*ō*): *hef* < M.H.G. *hof* (*hoves*). It is not clear why we have *ē*, instead of *o*, in *hékr* 'hunchback' < M.H.G. *hocker* (perhaps < parallel **hoker* with ungeminated *k*; cf. parallel *hoger*).

10. M.H.G. *ō*.

- a. This sound regularly became *ē*, probably through transitional stages *oi* > *öi* > *ei*. Examples are: *grēs* < M.H.G. *grōz*; *šēn* 'already' < M.H.G. *schón(e)*; *hēx* < M.H.G. *hōch*; *brēt* < M.H.G. *brót*; *rēt* < M.H.G. *rót*; *azē* < M.H.G. *alsō*; *lēz*

<M.H.G. *lōs*; *rē* < M.H.G. *rō*. Before final *r* glide *ə* intervenes: *ēr* 'ear' < M.H.G. *ōre*.

11. M.H.G. *u*.

- a. It normally remains as *u*: *un* 'and' < M.H.G. *unde*; *štub* < M.H.G. *stube*; *tsung* < M.H.G. *zunge*; *šnur* 'daughter-in-law' < M.H.G. *snur*; *zun* 'son' < M.H.G. *sun* (modern German *Sohn* is specifically Middle German, M.H.G. *son*); *zun* 'sun' < M.H.G. *sunne* (modern German *Sonne* is specifically Middle German); *kūmŋ* < M.H.G. *kumen* (variant of *komen*, probably extended by analogy from singular of present indicative *kume*, *kumest*, *kumet*); *zūmŋ* 'summer' < M.H.G. *sumer*; *trūkŋ* 'dry' < M.H.G. *trucken*; *rūkŋ* 'to shove' < M.H.G. *rucken* (parallel to *rücken*); *hūnt* < M.H.G. *hunt* (*hund*-).
- b. M.H.G. *u* seems to have become *i*, probably via *ü*, in *um zíst* 'um sonst' < M.H.G. *umbe sust*.
- c. Before *r* plus consonant *u* is broadened to *o* in *vórtsŋ* 'root' < M.H.G. *wurzel* (cf. Middle German *worz* for *wurz* 'plant, root'), also before final *r* in *nor* 'only' < M.H.G. *nur*.

12. M.H.G. *ū*.

- a. Diphthongization has taken place, as in modern German, but to *oi* (probably through *ui*, which seems to be found in some Judeo-German dialects), not *au*. Examples are: *oif* < M.H.G. *ūf*; *hoiz* < M.H.G. *hūs*; *moiz* < M.H.G. *mūs*; *moil* < M.H.G. *māl* 'Maul'; *kloiz* 'Talmudic school' < M.H.G. *klūse* 'abgeschlossene Wohnung'; *hoit* < M.H.G. *hūt*; *toizŋd* < M.H.G. *tūsent* (*tūsend*-); *boiān* < M.H.G. *būwen*. Glide *ə* appears after *oi* before final *r*; *zoīər* < M.H.G. *sūr*; *poīər* 'peasant' < M.H.G. *būr*.
- b. Before *x* plus consonant it is shortened to *u* in *mir dūxt* 'it seems to me' < M.H.G. *dūhte* (preterite of *dunken*, *dünken*); cf. *ā* > *a* before *x* plus consonant (see 2 b above).
- c. M.H.G. *ū* has become *a* in *farzāmŋ* 'to miss, neglect' < M.H.G. *versūmen*. No reason that is apparent can be given for this singular change.

- d. M.H.G. *ī* has apparently become *ai* in: *klaibn* 'to gather' < M.H.G. *klūben* 'pflücken, stückweise ablesen, auflesen' (> Modern German *klauben*). This is hard to understand phonologically. With its strong participle *giklibn*, it looks remarkably as though developed from M.H.G. *klīben*, past participle *gekliben* 'anhangen, Wurzel fassen und gedeihen', though there are semantic difficulties here. Perhaps **kloibn* < *klūben* and *klaibn* < *klīben* became confused in one form.

13. M.H.G. *ü*.

- a. Ordinarily *ü* was unrounded and thus fell in completely with original *i*: *mil* < M.H.G. *mül* 'mill'; *ibz* < M.H.G. *über*; *zin* 'sons' < M.H.G. *süne*; *kinig* < M.H.G. *künig* (*künig*); *ünmiglox* < M.H.G. *unmügelich*; *hintl*, diminutive of *hunt* 'dog' < M.H.G. *hunt* (*hund*-); *lign* 'lie' (subst.) < M.H.G. *lügen, lügene*.
- b. It became velarized to *u* in: *füll* 'fulness' < M.H.G. *vülle*; *kúšn* 'to kiss' < M.H.G. *küssen* (perhaps by analogy of *kuš* 'kiss'); *fúftsn* 'fifteen' < M.H.G. *vünfzēhen*; *fúftsig* 'fifty' < M.H.G. *fünzic* (*fünzig*-) (cf. M.H.G. *vunf, vumf* as parallel forms of *vünf, vümf*).
- c. Before final *r* and before *rr* it became broadened to *a* (cf. 3 c, 4 c, 7 b) in: *far* < M.H.G. *vür*; *dar* 'thin' < M.H.G. *dürre*.

14. M.H.G. *iu*.

This sound (pronounced *ü*) represents older diphthongal *iu* and *ü* as *i*-umlaut of *ī*. In Judeo-German it became unrounded to *ī*, which, falling in with original *i*, became diphthongized to *ai*. Examples are: *háizx* 'houses' < M.H.G. *hiuser*; *maiz* 'mice' < M.H.G. *miuse*; *nai* 'new' < M.H.G. *niurwe*; *aix* < M.H.G. *iuch*; *áior* < M.H.G. *iurver*; *báixl* < M.H.G. *biuchel*, diminutive of *búch* 'Bauch'; *lait* < M.H.G. *liute*.

15. M.H.G. *ö*.

- a. As with other umlaut vowels, *ö* was unrounded to *e*, thus falling together with original *ē*. Examples of *e* < M.H.G. *ö*

are: *rēkl̥* < M.H.G. *röckel*, diminutive of *roc* (*rock*-) 'coat'; *hérn̥* < M.H.G. *hörner*, plural of *horn*; *gikéxts* 'something cooked' < **geköchtes* (such forms seem to be based on substantivized neuter past participles in *-tes*, e.g. *gekochtes*, influenced by neuter collectives in *ge- . . -e* with umlaut, e.g. *gehörne*).

- b. In *el* 'oil' < M.H.G. *öl*, *öle* it seems that M.H.G. *ö* resulted in *ē* instead of expected *e*. However, *el* may go back to parallel M.H.G. *ol*, *ole* according to 9 c.

16. M.H.G. *æ* (*ō*).

- a. This sound became unrounded to *ē*, thus falling together with original *ê*, whence Judeo-German *ē*: *šēn* < M.H.G. *schæne*; *flēts̥n̥* < M.H.G. *vlātzen* (causative of *vliezen*); *lēzn̥* 'to take in money' (< 'to release value'?) < M.H.G. *læsen*; *trēst̥n̥* < M.H.G. *træsten*.
- b. It is broadened to *e* before *r* (cf. 5 b): *hérn̥* < M.H.G. *hæren*.
- c. In certain comparatives *ē* < M.H.G. *æ* developed to *e* instead of *ē* without apparent phonetic reason: *grés̥r* 'larger' < M.H.G. *græzer*; *šén̥r* < M.H.G. *schæner*; *héx̥r* 'higher' < M.H.G. *hæher*. In *héx̥r* open *e* may be phonetically explained as due to shortening of *ō* to *ö* before *x* (which had been introduced into comparative from positive *hōch*; **hæcher*, instead of *hæher*, > **höcher* > *héx̥r*); cf. 1 a (last sentence), 2 b, 12 b. The combined influence of *héx̥r* and such *e*-comparatives as *lēng̥r* 'longer' (in which *e* regularly developed from *ê*, *i*-umlaut of *a*) may have served to establish a category of *e*-comparatives, which analogically displaced the phonetically justified comparatives **grés̥r*, **šén̥r*. The change thus effected is functionally useful, inasmuch as a difference of form is established between the comparative and the inflected positive (nominative masculine singular): *a grés̥r man* 'ein grosser Mann', but *er iz grés̥r* 'er ist grösser' (modern German *schöner* corresponds to both *šén̥r* and *šén̥r*). That this change of *æ* to *e* is not phonetic, but analogic in character, is further indicated by the parallel *klén̥r* < *kleiner* (but positive *klén* < *klein*).

17. M.H.G. *uo*.

- a. This diphthong was monophthongized to *u* and, there being no quantitative differences in Judeo-German accented vowels, fell together with original *u*: *šux* < M.H.G. *schuoh*; *mútr* < M.H.G. *muoter*; *bux* < M.H.G. *buoch*; *štul* < M.H.G. *stul*; *ku* < M.H.G. *kuo*; *brúdy* < M.H.G. *bruoder*; *tsu* < M.H.G. *zuo*; *fus* < M.H.G. *vuoz*.
- b. In *ton* 'to do' < M.H.G. *tuon* it appears as *o*. This is probably due to the analogy of the participle *gítón* < M.H.G. *getân* (the ablaut *uo*-*ā*, Judeo-German *u*-*o*, is isolated and therefore easily levelled out).

18. M.H.G. *üe*.

This diphthong, which serves as *i*-umlaut of *uo*, became unrounded to *ie* and, falling together with original *ie*, became monophthongized to *i* (it is also possible that *üe* first became monophthongized to *ü* and then unrounded to *i*): *grin* < M.H.G. *grüene*; *ki* < M.H.G. *küeye* 'cows'; *mid* < M.H.G. *müede*; *kil* < M.H.G. *küele*, *küel*; *bíx!* < M.H.G. *büechel*, diminutive of *buoch*.

19. M.H.G. *ie*.

- a. As *uo*, when monophthongized, fell together with *u*, so *ie*, after being monophthongized, fell together with original *i*: *lixt* < M.H.G. *lieht*; *tif* < M.H.G. *tief*; *flígn* < M.H.G. *fliegen*; *bígn* < M.H.G. *biegen*; *hir* < M.H.G. *hier*; *fir* < M.H.G. *vier*.
- b. It became broadened to *e* before *r* plus consonant in *érgats* 'somewhere' < M.H.G. *iergen(t)*, *nérgats* 'nowhere' < M.H.G. *niergen(t)*. Contrast *i* < M.H.G. *ie*- in *ímrg* < M.H.G. *iemer* and *íst(r)* 'now' < M.H.G. *iesent*.
- c. *zē* 'they' < M.H.G. *sie* (but *zī* 'she' < M.H.G. *sie*) is perhaps best explained as secondarily lengthened from M.H.G. *se*, proclitic form of *sie*.

20. M.H.G. *eí*.

- a. This was not preserved as diphthong *aí*, as in modern German, but was monophthongized to *ē* (probably via *ē*): *hēsē* <

M.H.G. *heizen*; *en* < M.H.G. *ein*; *bret* < M.H.G. *breit*; *hem* < M.H.G. *heim* (note also Judeo-German adverb *ahēm* 'nach Hause'); *ē* 'egg' < M.H.G. *ei*; *ēdm* 'son-in-law' < M.H.G. *eidem*; *klen* < M.H.G. *kleine, klein*; *mēnn* < M.H.G. *meinen*; *hēln* < M.H.G. *heilen*; *ren* < M.H.G. *rein*.

- b. It appears as *e* in *ēmr* 'pail' < M.H.G. *eimer, eimber* (cf. M.H.G. parallel form *ember*). *e* of *klény* 'smaller' is best explained as due to analogy (see explanation of *grésy* and *šénr* in 16 c).

21. M.H.G. *ou*.

This diphthong early became monophthongized to \bar{o} (cf. *ei* > \bar{e} , see 20 a) and was further developed, together with original \bar{o} , to *ē* (probably via *oi* > *öi* > *ei*): *bēm* < M.H.G. *boum*; *eg* < M.H.G. *ouge*; *kēfn* < M.H.G. *koufen*; *štēb* < M.H.G. *stoup* (*stoub*); *rēx* < M.H.G. *rouch*.

22. M.H.G. *eu, öu*.

This diphthong also became Judeo-German *ē* (perhaps via \bar{o} > \bar{e} ; or via *öi* > *ei*, cf. M.H.G. *vröide* as variant of *vröude*): *frēd* 'joy', *Fréda* 'Joy' (girl's name) < M.H.G. *vröude, vreude*; *hē* 'hay' < M.H.G. *höuwe, hön*; *lēb* 'lion' < M.H.G. *lōuwe* (parallel to *lēwe*, which would have developed to **lēb*).

We thus see that the original rich vocalism of Middle High German has been greatly simplified in Judeo-German by unrounding rounded vowels (\bar{u} > *i*, $\bar{ü}$ > \bar{i} > *i*, *üe* > *ie* > *i*, \bar{o} > *e*, $\bar{ö}$ > \bar{e} > *ē*), by obliterating quantitative vocalic differences (\bar{i} < *ie* and *i* both give *i*; \bar{u} < *uo* and *u* both give *u*; these secondary \bar{i} and \bar{u} are of course to be carefully kept apart from original M.H.G. \hat{i} and \hat{u} , which did not fall together with them because they had already become diphthongized when *ie* became \bar{i} and *uo* became \bar{u}), and by monophthongizing of diphthongs (*ei* > \bar{e} > *ē*, *ou* > \bar{o} > *oi* > *öi* > *ei* > *ē*). In particular *ē* is, at least in the Lithuanian dialect, the reflex of no less than eight distinct vowels and diphthongs: *ē* (in

open syllables), *ê*, *ei*, *eu* (*öu*), *æ*, *ô*, *ou*, and *o* (in open syllables). Similarly, *i* goes back to *i*, *ii*, *ie*, and *iic*; *o* to *o* (in closed syllables), *â*, and *a* (in open syllables). Many words that in Middle High German are phonetically distinct have, in Judeo-German, fallen together owing to the operation of the phonetic laws we have sketched. Thus, *bret* corresponds to modern German *breit* and *Brot*; *şen* to *schön* and *schon*; *şten* to *stehen* and *Stein*; *nox* to *noch* and *nach*; *şgn* to *eigen* and *Augen*.

Unaccented M.H.G. *e* has generally dropped in absolute finality; examples of this have incidentally occurred in the discussion of the accented vowels. Where unaccented *-e* is preserved (as 'Murmelvokal' *-ə*), it is generally due to a functional, not a phonetic, reason (e.g. *güts lait* 'good people' and *a güts tóxt* 'a good daughter', in which *-ə*, as adjectival ending, indicates respectively plurality and feminine gender. Unaccented M.H.G. *e* unites with following tautosyllabic *l*, *m*, *n*, and *r* to form sonantic (syllabic) *l̥*, *m̥*, *n̥*, and *r̥*. In unaccented syllables and when after vowels or when followed by one or more stop or spirant consonants M.H.G. *e* appears as *ə* (e.g. *érgəts* < M.H.G. *iergent*; *díər* < M.H.G. *iuwer* 'your'). Unaccented M.H.G. *e* sometimes disappears in other than final position. Thus, regularly in participial *-et* after all consonants, including *d* and *t*, *-det* and *-tet* contracting to *-t* (e.g. *güvərt* < M.H.G. *gewartet*; *güht* < M.H.G. *gehüctet*; *güret* < M.H.G. *geredet*); similarly, *-est* of second person singular and *-et* of third person singular and second person plural present indicative (and imperative) regularly become *-st* and *-t*, *-det* and *-tet* contracting to *-t* (e.g. *du vārtst* < M.H.G. *du wartest*; *er rēt*, *güfnt* < M.H.G. *ir rēdet*, *gefundet*; *ir hīt* < M.H.G. *ir hüetet*; second person plural imperative *ret* < M.H.G. *rēdet*). Such

syncopated forms go back in part to M.H.G. originals (e.g. M.H.G. *vint* 'finds' alongside of *vindet*; *getraht* alongside of *getrahtet*).

Other unaccented vowels than *ə* are also found, though rather less frequently than in modern German. They occur chiefly in secondarily accented syllables. Examples of suffixed elements with vowel not dulled to *ə* are: *-ik* (e.g. *klinik* < M.H.G. *künic*); *-iš* < M.H.G. *-isch* (e.g. *mliš* 'ugly'); *-nis* < M.H.G. *-nisse* (e.g. *gřétunis*); *-ung* (e.g. *mčnung* < M.H.G. *meinunge*); *-ket* < M.H.G. *-keit* (e.g. *gřtsket* 'goodness', *gřśket* 'greatness'). Diminutive *-lîn* appears in Judeo-German as secondarily accented *-le*, preceding M.H.G. *-e* being developed to *-a-* (e.g. *kındalē* < M.H.G. *kindelîn*; these diminutives in *-alē* imply a loving or caressing attitude, whereas forms in *-əl, -l* are simply diminutive). M.H.G. *-lich* regularly appears as *-lax* (e.g. *frēlax* < M.H.G. *vralich*). Full vowels of unaccented syllables which have no definite significance as word-forming elements tend more frequently than in modern German to be dulled to *ə* (e.g. *ərbəs* 'pea' < M.H.G. *ērweiz*, *arweiz*; *ərbət* 'work' < M.H.G. *arbeit*). This is true even in cases where the unaccented vowel is the stem vowel of the second member of a compound, provided the analysis of the compound is not felt as obvious (e.g. *bórvəs* 'barefoot' < M.H.G. *barvuoꝝ*; *kĩnpət* 'confinement after childbirth' < M.H.G. *kĩntbētte*). An example of extreme reduction, in which not only an unaccented diphthong but also the consonant following it is lost, is *knóbł* 'garlic' < M.H.G. *knobelouch*.

M.H.G. *e* standing in a syllable immediately preceding the accent seems regularly to develop to *a*: *ba-* < M.H.G. *be-* (e.g. *baklógŋ* < M.H.G. *beklagen*); *far-* < M.H.G. *ver-* (e.g. *farbrėnŋ* < M.H.G. *verbrėnnen*); *ar-* < M.H.G. *hřr* (e.g.

ar- in local adverbs—*arúntŕ*, *aribŕ*, *aróis*, and others); *ant-* < M.H.G. *en(t)-* (e.g. *antkégn* < M.H.G. *engegen(e)*; *antléfn* < M.H.G. *entlounfen*); *a-* < M.H.G. *en-* in adverbs (e.g. *avék* < M.H.G. *en-wïc* 'away'; *ahér* < M.H.G. *ën-hër* 'hither'; *ahín* 'thither'; *ahém* 'towards home'). Accented *ent-*, however, remains: *entfærŕ* 'to answer' < M.H.G. *entwürten* (parallel to *antwürten*). Unaccented M.H.G. *bê* also developed to *ba* (e.g. *ba mir* 'bei mir' < M.H.G. *bê mir*); unaccented M.H.G. *ûf* became *af* (e.g. *af a bânk* 'on a bench'); M.H.G. unaccented *vor* developed to *far*, thus falling together with M.H.G. *ver-* and *vür* (see 13 c; *far* < *vür* very likely also developed in unaccented position) (e.g. *farbái* 'vorbei'; *far jórŕ* 'years ago' < M.H.G. *vor jâren*; *far tóg* 'before daybreak'; *fartsáitŕŕ* 'long ago'). M.H.G. *cin* as article, which always stands in proclitic position, has become *a* (before consonants), *an* (before vowels); as numeral 'one', however, it develops to *en* (see 20 a). M.H.G. *zer-*, *ze-* appears as *tsu-* (e.g. *tsurísŕ* < M.H.G. *zerrissen*); this correspondence, however, is undoubtedly not purely phonetic in character, as parallel M.H.G. *zur-*, *zu-* is found in Middle German dialects. M.H.G. verb prefix *er-* appears in Judeo-German as *dŕ-*; cf. parallel M.H.G. *der-*. M.H.G. *ge-* appears as *gĩ-* with short open *i* (e.g. *gĩmáxt* < M.H.G. *gemacht*; *gĩzúnt* < M.H.G. *gesund*); it is barely possible that this *gĩ-* goes back to O.H.G. *gi-*. Proclitic *man*, in its indefinite sense, becomes reduced to *mŕ* (e.g. *mŕ mēnt* 'man meint').

The whole Judeo-German vowel scheme thus reduces itself to six full vowels: *a*, *o*, *i*, *u*, *e*, *ɛ*; a 'Murmelvokal' *ə* (also *ɪ*); and two diphthongs: *ai*, *oi*.

CONSONANTS.

The Middle High German consonants have undergone less sweeping changes than the vowels. The most important innovation has already been mentioned: the generalization of a paradigmatic final stem sonant, the otherwise constant interchange in German dialects between final surd and medial sonant being thus obliterated in Judeo-German. The comparatively few consonant changes that it has suffered will be noted under the various consonants. The chief points of general application are these:—The stops exist in two strictly differentiated series as surds and sonants; there is no amalgamation of the two into one group of 'voiceless mediae', as in many Middle German dialects, nor has the sonant lost any of its resonant quality; the surds and sonants are as clearly set against each other as in English. The distinction that obtains in modern German between guttural x (after back vowels) and palatal x' (after palatal vowels, r , and l) is absent in Judeo-German; the guttural x (as in German *Bach*) is used in all positions (thus, to German *schlecht* corresponds Judeo-German *šlext* with x as in Dutch *slecht* and as in Swiss dialects). The pronunciation of r differs in different parts of the Judeo-German area. While the trilled tongue-tip r , which may be due to Slavic influence, is found in Southern Russia, the uvular r (r grasseyé) prevails in the Lithuanian dialect; it is pronounced with considerable vigour, but is not markedly trilled, hence is probably better defined as voiced velar spirant (γ). This uvular r and the frequency of guttural x serve to give Judeo-German a characteristic guttural acoustic effect. In our consideration of the consonants we begin with the semivowels.

1. M.H.G. *j*.

- a. It is generally preserved as *j* (y of English *young*): *jung* < M.H.G. *junc* (*jung-*); *jor* < M.H.G. *jār*; *jōgn* < M.H.G. *jagen*.
- b. Where it served as glide consonant in M.H.G. between preceding palatal vowel and following unaccented *e* (as in *küeje*, *müeje*, *sæjen*) it has dropped in Judeo-German (together with final *-e*): *ki* 'cows' < M.H.G. *küeje*.
- c. It has dropped initially before Judeo-German *i* (M.H.G. *ü*): *īygl* < M.H.G. *jüngel*(*in*); *id* 'Jew' < M.H.G. *jüde* (parallel to *jude*). It is interesting to note that *i*-<*ji*- requires *a* as preceding article: *a id* 'ein Jude' (not *an id*).

2. M.H.G. *w*.

- a. This sound, where preserved, became dento-labial *v*: *vald* < M.H.G. *walt* (*wald-*); *tsv* < M.H.G. *zwei*; *šver* 'heavy' < M.H.G. *swære*; *švax* < M.H.G. *swach*; *kveln* 'to well up, swell (with joy)' < M.H.G. *quellen* (i.e. *kwellen*); *vort* < M.H.G. *wort*.
- b. It appears as *f* after *t* in: *éntforn* 'to answer' < M.H.G. *antwürten*.
- c. After *l* and *r* it became stopped to *b*, as in modern German: *ārbās* 'pea' < M.H.G. *ärwīz*; *farb* 'colour' < M.H.G. *varwe*.
- d. Between vowels (but not after *u*-vowels) *w* seems, as in Swabian dialects (cf. also German *hieben* < M.H.G. *hiewen*), to have become *b*: *lēb* 'lion' < M.H.G. *lēwe*, *lōuwe*; *ēbig* < M.H.G. *ēwic* (*ēwig-*); *īybr* 'ginger' < M.H.G. *ingerwēr* (cf. M.H.G. variants *ingebēr*, *imbēr*).
- e. It is syncopated between *u*-vowel and following vowel: *bōian* 'to build' < M.H.G. *būwen*; *āiar* < M.H.G. *iūwer*.

3. M.H.G. *l*.

- a. Normally it remains: *land* < M.H.G. *lant* (*land-*); *layg* < M.H.G. *lanc* (*lang-*); *laixt* < M.H.G. *licht*; *als* 'all' < M.H.G. *allez*; *fāln* < M.H.G. *vallen*; *gold* < M.H.G. *golt* (*gold-*).
- b. It has been syncopated before an accented syllable in: *az* 'that, when' < M.H.G. *als*; *azē* 'so' < M.H.G. *alsō*.

4. M.H.G. *r*.

- a. As we have seen, it became uvular in pronunciation: *rət* < M.H.G. *rôt*; *rэгн* < M.H.G. *rëgen*; *rəx* < M.H.G. *rouch*; *ber* 'bear' < M.H.G. *bër*; *gor* < M.H.G. *gâr*; *hérн* < M.H.G. *hæren*.
- b. In *mátrн* 'to torment' < M.H.G. *martern* *r* has been syncopated by dissimilation from *r* of *-ern*. In forms of *vérn* < M.H.G. *wërden* *r* is syncopated before final *-t* and *-st*: *du vest* < *du wirst*, *er vet* < *er wirt* (*e* of *vest* and *vet* is analogical), *ir vet* < *ir wërdet*.

5. M.H.G. *n*.

- a. This sound normally remains, also in infinitive ending *-en*: *nai* < M.H.G. *niurwe*; *nit* 'not' < M.H.G. *niet* (variant of *nieht*, *niht*); *noz* < M.H.G. *nase*; *nas* < M.H.G. *naz*; *ken* < M.H.G. *kan* and *kënnē*; *hélfn* < M.H.G. *hëlfen*; *zint* < M.H.G. *sint* 'since'.
- b. In *ein* as indefinite article *n* has remained only before vowels, otherwise it is syncopated: *a mán* 'ein Mann' but *an óks* 'ein Ochs' (cf. English *a*, *an*). Wrong division has produced, e.g., *nam* 'nurse' (M.H.G. *ein' amme* > *an am* > *a nam*); *nol* 'awl' (M.H.G. *ein' ále* > *an ol* > *a nol*). *n* has been syncopated also in: *lëbēdic* < M.H.G. *lëbēdic*; *fúftsн* < M.H.G. *vünfzēhen*, *fúftsиг* < M.H.G. *vünfzic*. It is barely possible that *fúftsн* and *fúftsиг* have been remodelled, by analogy of *finf* 'five', from etymologically justified **fux-* < **fux-* < **fuyx-* < Indogermanic **pṛṇkw-* (cf. Swabian *fuchzē* 'fifteen'; see W. Streitberg, *Urgermanische Grammatik*, 1900, p. 111).
- c. In M.H.G. *nëben* 'near' *n-* has become dissimilated to *l*: *lëbn*.
- d. It is assimilated before *p* to *m* in *kímpət* < M.H.G. *kintbētte*; *váimprləx* diminutive plural < M.H.G. *wín-bër*.

6. M.H.G. *m*.

This consonant seems to have remained in all cases: *médł* 'girl' < M.H.G. *meidel*; *man* < M.H.G. *man* (*mann-*); *mos*

< M.H.G. *māz*: *mir* < M.H.G. *mir*; *kúmn* < M.H.G. *kumen*; *hem* < M.H.G. *heim*. It is particularly noteworthy that unaccented *-em* has not been weakened to *-n* as in modern German: *bézm* 'switch used in rubbing down in sweat-bath' < M.H.G. *bēseme* (cf. German *Besen*); *fódm* < M.H.G. *vadem* (cf. German *Faden*); *bédm* 'loft, attic' < M.H.G. *bodem* (cf. German *Boden*). In *zamd* 'sand' *m*, as we have seen, is more archaic than *n* (M.H.G. *sant*, *sand*-).

7. M.H.G. *ŋ* (written *n*).

This sound, which occurs only before *g* and *k*, has been preserved in all cases: *gīgāngn* < M.H.G. *gegangen*; *jung* < M.H.G. *junc* (*jung*-); *īngl* < M.H.G. *jüngel*(*in*); *dāngn* < M.H.G. *danken*; *dēngn* < M.H.G. *dēnken*.

8. M.H.G. *v*, *f* (Urgermanisch *f*) and *-ff*, *-f* (Urgermanisch *f*).

a. As in other modern German dialects, these two etymologically distinct sounds fell together in Judeo-German, except for intervocalic *-v-* (see b): *fótr* < M.H.G. *vater*; *fil* < M.H.G. *vil*; *fédz* < M.H.G. *vēder*; *fētr* 'uncle' < M.H.G. *vēter* 'Vatersbruder'; *far* < M.H.G. *ver*-; *šlófn* < M.H.G. *slōfen*; *tif* < M.H.G. *tief*; *hēlfz* < M.H.G. *helfen*; *šarf* < M.H.G. *scharf*; *dorf* < M.H.G. *dorf*; *ófz* < M.H.G. *offen*; *hef* < M.H.G. *hof*; *volf* < M.H.G. *wolf*.

b. Medially before vowels M.H.G. *v* appears as *v* (voiced dento-labial identical with *v* < M.H.G. *w*, see 2 a): *évn* 'stove' < M.H.G. *oven*; *taívl* 'devil' < M.H.G. *tiuvel*; *hēvn* 'yeast' < M.H.G. *hēve*; *bórvs* 'barefoot' < M.H.G. *barvuoʒ*. *hóbr* 'oats' goes back to M.H.G. *haber*, not *haver* (see 10 a).

9. M.H.G. *pf* (*ph*).

a. Initially *pf* has become simplified to *f*: *funt* < M.H.G. *pfunt*; *ferd* < M.H.G. *pfērt* (*pfērd*-); *ix flīg* 'I was wont to' (present in form, but imperfect in meaning) < M.H.G. *pflege*; *fan* 'pan' < M.H.G. *pfanne* (*faínkuxn* 'Pfannkuchen' is probably made over by analogy of *fain* < *fīn*).

b. Medially and finally it lost its spirantal element and became

p: *kop* < M.H.G. *kopf*; *klópn* < M.H.G. *klopfen*; *épl* < M.H.G. *épfel*, *apfel*; *štúpn* 'to shove' (*er štupt únt* 'he eggs on') < M.H.G. *stupfen* 'stechend stossen, antreiben'.

10. M.H.G. *b*.

- a. Normally *b* is preserved (as voiced lenis); it occurs also finally (< M.H.G. *-p*), probably by analogy of medial *-b*: *bret* < M.H.G. *breit*; *bret* < M.H.G. *brót*; *bai*, *ba* < M.H.G. *bî*; *barg* < M.H.G. *bêrc* (*bêrg*-); *lébn* < M.H.G. *leben*; *lébn* < M.H.G. *nëben*; *hóbr* 'oats' < M.H.G. *haber* (of which *haver* > modern German *Hafer* is variant); *tsíbl* 'onion' < M.H.G. *zibolle* (variant of *zwibolle*, *zwibei*); *štub* < M.H.G. *stube*; *štēb* < M.H.G. *stoup* (*stoub*-).
- b. In *óvnt* 'evening' < M.H.G. *ábent*, M.H.G. *b* has become spirantized to *v*; also in *hóravn*, see 18 c. For M.H.G. medial bilabial spirant *ð*, from older *-b*, in Middle German dialects see V. Michels, *Mittelhochdeutsches Elementarbuch*, 1900, § 159.
- c. M.H.G. *-mb-* has, as in modern German, become assimilated to *-mm-* > *-m-*: *kam* < M.H.G. *kamp* (*kamb*-); *um* < M.H.G. *umbe*; *lam*, diminutive *lémale* < M.H.G. *lamp* (*lamb*-), diminutive *lëmbelín*.
- d. In a number of words M.H.G. *b* appears as *p*. This is intelligible where final *-b* developed to *-p* and was not levelled out by analogy of medial *-b*: *zip* 'sieve' < M.H.G. *sip* (*sib*-); *op* < M.H.G. *abe*, *ab* (*aróp* 'herab'; as verb prefix before participial *gî-*, *op-* appears as *ó-*: *ógiton* 'abgetan'). Less easily explained are certain examples of initial and medial *p*: *poíar* 'peasant' < M.H.G. *búr*; *pút* 'butter' < M.H.G. *buter*; *gópl* 'fork' < M.H.G. *gabel*; *klépn* 'to be stuck to' < M.H.G. *klëben*; *váimpr* (*lax*) < M.H.G. *wínber*. In estimating these and similar developments (*t* < *d*, *k* < *g*) it must be remembered that Judeo-German knows no 'voiceless lenis' stops, but only fully voiced lenis stops (corresponding to Upper German voiceless lenis) and unaspirated voiceless fortis stops (corresponding to Upper German voiceless fortis).

11. M.H.G. *ʃ*.

This sound regularly remains: *parʃén* < M.H.G. *p̄ersōn* (for *a* < *ē* see 3 c); *ʃpily* < M.H.G. *spilen*; *ʃprung* < M.H.G. *sprunc* (*sprung*-).

12. M.H.G. *s*, -*ss*- and -*z*-, -*zz*-.

a. Initial and medial *s* (except before voiceless consonants) became voiced to *z* (this includes also final -*s* when alternating with medial -*s*-); *zun* < M.H.G. *sun* 'son' and *sunne* 'sun'; *zōgny* < M.H.G. *sagen*; *zēgr* 'clock' < M.H.G. *seiger*; *zúxny* < M.H.G. *suoohen*; *az* < M.H.G. *als*, *alse*; *azē* < M.H.G. *alsō*; *únzr* < M.H.G. *unser*; *kez* 'cheese' < M.H.G. *kæse*; *b'ōzny* < M.H.G. *blāsen*; *bloz* 'breath' < M.H.G. *blās* (*blās*-) 'Hauch'; *groz* < M.H.G. *gras* (*gras*-). Medial ungeminated -*z*- has also developed to *z* in: *lōzny* 'to let' < M.H.G. *lāzen*. Judeo-German *z* in *muz* 'must' may be similarly developed from medial ungeminated -*z*- (M.H.G. *muoz*: *müezen* > *muz*: *múzn* with generalized vocalism of *muoz* and medial -*z*- of *muezen*) or, perhaps less likely, from medial -*s*- of preterite *muose* (later superseded by analogical *muoste*). More often, however, -*z*- is treated like -*zz*- (see b).

b. Final -*z*, medial -*zz*- and (generally) -*z*-, and medial -*s*- before voiceless consonants appear in Judeo-German, as in modern German, as voiceless *s*: *ois* 'out' < M.H.G. *úz*: *fus* < M.H.G. *vuoz*; *vais* < M.H.G. *wíz*; *dos* < M.H.G. *daz*; *ēsny* < M.H.G. *ēzzen*; *bēsny* < M.H.G. *bēzzer*; *baísny* < M.H.G. *bīzen*; *hēsny* < M.H.G. *heizen*; *nest* < M.H.G. *nēst*: *um zíst* < M.H.G. *umbe sust*; *host* < M.H.G. *hāst*. Judeo-German *méstny* 'to measure' (with analogic participle *gímōstny*) has perhaps resulted from confusion of M.H.G. *mēzzen* 'messen' and *mēstern* 'den Inhalt messen'. M.H.G. *ist* > Judeo-German *iz* is due to loss of -*t* and voicing of *s* because of its frequent use as proclitic (*iz* probably generalized from antevocalic use, e.g. *iz a mán* < M.H.G. *is(t) ein man*).

c. For some not evident reason medial M.H.G. -*s*- appears as

- Judeo-German -s- instead of -z- in: *kéšy* < M.H.G. *keiser*; *nísn̩* 'to sneeze' < M.H.G. *niesen*.
- d. M.H.G. -ss- seems to have regularly developed to š, i.e. modern German *sch* (it has thus not, as in modern German, fallen together with M.H.G. -zz-, -z-): *kuš* < M.H.G. *kus* (*kuss*-); *kúšn̩* (with vocalism of *kuš*) < M.H.G. *küssen* 'to kiss'; *kíšn̩* < M.H.G. *küssen* 'pillow'; *píšn̩* 'to urinate' < *pissen*.
- e. After *r* both *s* and *z* appear as š; *karš* < M.H.G. *kirse*; *paršén* 'beautiful woman' < M.H.G. *pěrsôn*; *eršt* < M.H.G. *ěrst*; *hirš* < M.H.G. *hirz*.
- f. Before *l*, *m*, *n*, *w*, *p*, and *t* initial M.H.G. *s* developed, as in modern German, to š: *šlex̩t* < M.H.G. *slēht*; *šmaísn̩* 'to beat' < M.H.G. *smízen* 'streichen, schlagen'; *šne* < M.H.G. *sné*; *šver* < M.H.G. *swære*; *špet* < M.H.G. *spæte*; *šten* < M.H.G. *stein*.
13. M.H.G. *sch*.
This sound is regularly preserved as š: *šépn̩* < M.H.G. *schēpfen*; *šainn̩* < M.H.G. *schínen*; *šétl̩* 'perruque with evenly parted hair worn by orthodox Jewish women' < M.H.G. *scheitel* 'crown of the head, parting of the hair'; *míšn̩* < M.H.G. *mischen*; *ídíš* < M.H.G. *jüdisch*.
14. M.H.G. *z* and -*tz*-.
These affricatives are everywhere preserved as *ts*: *tsen* < M.H.G. *zēhen*; *tsen* < M.H.G. *zan*; *tsve* < M.H.G. *zwei*; *harts* < M.H.G. *hērze*; *kats* < M.H.G. *katze*.
15. M.H.G. *d*.
a. Normally *d* is preserved (as voiced lenis); it occurs also finally (< M.H.G. -*t*), probably by analogy of medial -*d*: *dax* < M.H.G. *dach*; *dar* 'thin' < M.H.G. *dürre*; *drai* < M.H.G. *drí*; *moid* < M.H.G. *maget* (*maged*-); *bod* < M.H.G. *bat* (*bad*-); *feld* < M.H.G. *vělt* (*věld*-); *ferd* < M.H.G. *pfért* (*pfěrd*-); *ódz* 'vein' < M.H.G. *áder*. Examples of *nd* < M.H.G. *nd* (including cases of -*nt* alternating with -*nd*-) < O.H.G. *nt* are: *bíndn̩* < M.H.G. *binden*;

óntsindn < M.H.G. *anzünden*; *vúndrn* < M.H.G. *wundern*; *blind* < M.H.G. *blint* (*blind-*); *land* < M.H.G. *lant* (*land-*); *rund* < M.H.G. *runt* (*rund-*); *kind* < M.H.G. *kint* (*kind-*); *end* < M.H.G. *ende*. For examples of *nt* < M.H.G. *-nt* (*-nd-*) see 15 d below.

- b. M.H.G. *rd* appears as *r* in: *véryn* < *wërden* (similarly *ix ver* < M.H.G. *ich wërde*, *g'vóryn* < M.H.G. *geworden*; *-rst* and *-rt* of this verb develop to *-st*, *-t*, see 4 b). This development is not strictly normal, but is probably due to frequently proclitic character of *wërden* owing to its use as auxiliary verb; contrast *ferd* < M.H.G. *pferd-*. Quite parallel to this is *l* < M.H.G. *ld* in: *mánzbil* 'man' < M.H.G. *mannes bilde* (e.g. *zwei mannes bilde er dà gesach* 'da sah er zwei Männer', *Der Wartburgkrieg*, herausgegeben von Karl Simrock, 1858, p. 65, l. 4 of no 37), in which *bilde* has lost its accent (*-z-* of *mánzbil* due to voiced surroundings of M.H.G. *-s-*); contrast accented *bild* 'picture' < M.H.G. *bilde*. In certain cases *nd* is assimilated to *nn* > *n* (cf. *m* < M.H.G. *mb*, see 10 c): *un* 'and' < M.H.G. *unde*; *fránn* 'in existence, to be found' < *vorhanden*; *gífínn* 'to find' (simplex *fínn* not in use) < M.H.G. *gevinden*; *gíštánn* < M.H.G. *gestanden*; *tson* < M.H.G. *zant* (*zand-*), but also *zan*. In *un* we can readily explain *n* < *nd* as due to lack of accent (cf. *r* < *rd* and *l* < *ld* above); in *fránn* and *gíštánn* it seems very likely that original *-ndn* regularly developed to *-nn*, internasal *-d-* becoming completely assimilated (in such forms as *bíndn*, *gibúndn* it is clear that *-ndn* was restored by analogy of forms like *ix bind*, *er bint*; note that in *fránn*, whose connexion with M.H.G. *hant* (*hand-*) was lost, and *gíštánn*, with its infinitive and present *šten*, *ix šte*, no disturbance by analogical levelling could take place). As for *gífínn* (also *gífúnn*, *ix gifín*) and *tson* (also plural *tsénn*; diminutive *tséndl* has not original *-nd-* but intrusive *-d-*, see 15 c below), I would suggest that M.H.G. *nd* of *zand-* and *vinden* (which goes back to O.H.G. *nd—zand*, *findan* — < Urgermanisch *nþ* — cf. Gothic *tunþus*,

finpan) was, at least in some dialects, phonetically distinct from M.H.G. *nd* < O.H.G. *nt* (thus, O.H.G. *findan* > M.H.G. *vinden* > Judeo-German *finny*; O.H.G. *bintan* > M.H.G. *binden* > Judeo-German *bindy*); in *andy* < M.H.G. *ander* < O.H.G. *ander*, *-nd-* may have been protected from becoming *-n-* because of following *-r* (cf. M.H.G. *winter* < O.H.G. *wintar* as contrasted with *winden* < *wintan*).

- c. Between *n* as stem ending and *-l* (*-l-*) as diminutive ending *d* develops as glide consonant (cf. Gothic *timrjan*: O.H.G. *zimbarón*): *bend_l* 'little bone' < M.H.G. *beinel*; *fend_l* 'little pan', diminutive of *fan* < M.H.G. *pfanne*; *hend_l* 'little cock' < M.H.G. *henel*; *hind_l* 'little hen' < M.H.G. *hüenel*; diminutive plural of nouns in *-n-* is *-ndlax* (e.g. *bendlax* 'little bones, fruit pits').
- d. In certain cases, as we have seen in 15 a, M.H.G. *-nt* (*-nd-*) and *-lt* (*-ld-*) developed to *-nd* and *-ld*, as would be normally expected for Judeo-German. In a large number of examples, however, *-t* is generalized, replacing *-d-* also medially: *gizunt* (also, e.g., in a *gizúnty* 'ein gesunder') < M.H.G. *gesund* (*gesund-*); *hunt* (also, e.g., diminutive *hintl_l*; contrast *hind_l* as diminutive of *hun* 'hen') < M.H.G. *hunt* (*hund-*); *hant* (also, e.g., diminutive *hent_l*; contrast *hend_l* as diminutive of *hon* 'cock') < M.H.G. *hant* (*hand-*); *vint* (also, e.g., diminutive *vin_l*) < M.H.G. *wint* (*wind-*); *funt* < M.H.G. *pfunt* (*pfund-*); *faint* < M.H.G. *vriunt* (*vriund-*); *faint* < M.H.G. *viant* (*viand-*); *bunt* (also, e.g., diminutive *bintl_l*) < M.H.G. *bunt* (*bund-*); *obunt* < M.H.G. *dbent* (*dbend-*); *gidult* < M.H.G. *gedult*, *gedulde* (but also *gedultec*); *gelt* < M.H.G. *gëlt* (*gëld-* but also *gëlt-*). I can suggest no definite rule for such differences of treatment as *blind* < M.H.G. *blint* (*blind-*) < O.H.G. *blint* (*blint-*) and *vint* < M.H.G. *wint* (*wind-*) < O.H.G. *wint* (*wint-*). Possibly *-nd* forms are generalized in words where medial *-nd-* occurs often (e.g. *blind* because supported by inflected *blinds* and *blindy*), but *-nt* forms where medial *-nd-* either occurs infrequently (thus, M.H.G. *bündel* would not be of frequent enough occurrence

to influence *bunt*, hence itself suffers analogical levelling to *bíntl*, which can hardly be directly traced to O.H.G. *buntl*) or has become obsolete in Judeo-German (thus M.H.G. *hènde* had to develop, with loss of *-e*, to Judeo-German *hend*, which could not maintain its *-d* against singular *hant*, hence itself suffers analogical levelling to *hent*, which can hardly be directly traced to O.H.G. *hènti*); *bunt* and *bindn* appear contradictory, but can be readily explained, as they would not be felt to be connected closely enough to influence each other. In *úntr* < M.H.G. *under* < O.H.G. *untar*, *-nd-* has, as in modern German, again become hardened to *-nt-*, probably because of following *-r* (cf. M.H.G. *winter* < *wintar*); similarly *híntr* < M.H.G. *hinder*. As for Judeo-German *gelt* as contrasted with *feld*, it should be noted that O.H.G. has correspondingly *gëlt* but *fëld*.

- e. Different from these examples of *-nt* and *-lt* from M.H.G. *-nd-* and *-ld-* are certain cases of initial *t* < normal M.H.G. *d* (cf. *p* < *b*, 10 d): *taitš* < M.H.G. *diutsch*, *tiutsch* (also *fartaitšn* 'to translate' < M.H.G. *diutschen*, *tiutschen* 'auf deutsch sagen, erklären'); *tínkl* < M.H.G. *dunkel*, *tunkel* (M.H.G. *tunkel* is normal, hence this example belongs rather under M.H.G. *t*); *tétl* 'date' < M.H.G. *datel* (*tétl* may be assimilated from **détl*; why *e* instead of expected *o*?).

16. M.H.G. *t*.

- a. This sound, aside from cases of M.H.G. *-t*: *-d-*, has been kept in all positions: *ton* < M.H.G. *tuon*; *túml* < M.H.G. *tumel* 'betäubender Schall, Lärm'; *təl* < M.H.G. *teil*; *kóir* 'tomcat' < M.H.G. *kater*; *víntr* < M.H.G. *winter*; *zint* 'since' < M.H.G. *sint*; *bet* < M.H.G. *bette*; *rét* < M.H.G. *rót*; *gízált* < M.H.G. *gewalt*; *nont* 'near' < M.H.G. *náhent* (note also Judeo-German comparative *néntr*).
- b. It is not easy to see why *-tl* has become *-dl* in *bírdl*, diminutive of *bort* 'beard' < M.H.G. *bart*. Perhaps original **bértl* was transformed by analogy of diminutives in *-ndl* (see 15 c).

Initial *tw-*, as in modern German, has developed to *tsv-*: *tsvīngŋ* < M.H.G. *twingen*; *tsvōgŋ* 'to wash one's head' < M.H.G. *twahen*, past participle *getwagen*; *tsvōræx* < M.H.G. *twarc* (*twarg-*) 'Quarkkäse' (this word may have been directly derived from Slavic, e.g. Polish *tvarog*, from which it was borrowed by M.H.G., in which case Judeo-German *tsv-* < *tw-* < *tw-* would have taken place after Judeo-German had become isolated from other German dialects; this, however, is rendered very improbable by parallel form *zwarc* in late M.H.G.).

- d. Medial *-tw-* has become *-p-* in: *éps* 'something' < M.H.G. *ët(e)waz* (cf. Latin *b* < *dw* in *bis*, *p* < *tw* in *postis*).—How explain *rátvŋ* 'to save'? It is undoubtedly connected with M.H.G. and O.H.G. *rēttēn* < West Germanic **hraddjan* < Urgermanisch **hradjan*, but cannot be directly derived from it. Perhaps parallel to **hradjan* with *j*-suffix was **hradwan* with *w*-suffix > O.H.G. **(h)ratwan* > M.H.G. **ratwen*, dialectically preserved in Judeo-German as *rátvŋ*. In that case *-tw-* > *-p-* may hold only in normally unaccented words.
- e. *-st* has become *-s* > *-z*, because of lack of accent, in: *iz* < M.H.G. *ist*. Similarly, *-rtŋ* has become *-rŋ* in: *éntfərŋ* 'to answer' < M.H.G. *entwürten*.

17. M.H.G. *h* (as spirant), *ch*.

As was noted above, no distinction is made in Judeo-German between guttural *x* and palatal *x'* (as in modern German *ich*), but both are represented by guttural *x*. This feature may be archaic rather than due to levelling.

- a. It is kept in all positions except before *s*: *laixt* < M.H.G. *līhte*; *nox* < M.H.G. *noch*; *nox* < M.H.G. *nāch*; *zix* < M.H.G. *sich*; *kalx* < M.H.G. *kalch* (parallel to normal *kalk*) < O.H.G. *kalch*; *marx* 'marrow' < M.H.G. *march* (parallel to *mark*); *gix* 'quick' < M.H.G. *gāch*; *šux* 'shoe' < M.H.G. *schuoch* (note analogical plural *šix* < M.H.G. *schuohe*); *hex* < M.H.G. *hōch* (note analogical

comparative *héxɿ*: < M.H.G. *hæher*); *bílɿ* 'more proper' < M.H.G. *billich* 'gemäss, geziemend' (*g* of modern German *billig* is secondary in origin).

- b. Before *s*, as in modern German, it has become *k*: *oks* < M.H.G. *ohse*; *vakst* 'grows' < M.H.G. *wähset*.
- c. Before diminutive *-l* nouns ending in *l* insert *x*: *špílɿ*, 'plaything', diminutive of *špil* < M.H.G. *spil*; *maílɿ*, diminutive of *moil* 'mouth' < M.H.G. *múl*; *kélɿ* 'little throat, voice' < M.H.G. *kēl*. I doubt if this *-x* is in any way connected with modern German diminutive *-chen*.

18. M.H.G. *h* (as aspirate).

- a. It is preserved initially: *halz* < M.H.G. *hals*; *hon* < M.H.G. *hane* 'cock'; *hot* < M.H.G. *hât*; *ahin* < M.H.G. *hin*.
- b. Between vowels, as in modern German, it disappears: *laïən* 'to lend' < M.H.G. *lihen*; *nont* 'near' < M.H.G. *nâhent*. For M.H.G. *-êhe-* and *-êhe-* > *-e-* see 3 b and 4 b of Vowels. *h* has also disappeared in *fránn* 'present' < *vorhanden*.
- c. In a few words *h* is inorganic: *haílŋ* 'to hurry' < M.H.G. *îlen*; *hórɿŋ* 'to work hard' < *arben, areben* (Swiss *arben*, Nassau *erwē*; see Kluge, *Deutsches Etymologisches Wörterbuch*, s.v. *Arbeit*) with *v* < *h*, see 10 b.

19. M.H.G. *g*.

- a. Normally *g* is preserved (as voiced lenis); it occurs also finally (< M.H.G. *-c*), probably by analogy of medial *-g-*; it has nowhere undergone spirantization to *ɣ* (as in modern German *tāɣə*) or *j* (as in modern German *vějə*). Examples are: *gut* < M.H.G. *guot*; *gel* 'yellow' < M.H.G. *gël*; *zógŋ* < M.H.G. *sagen*; *négl* 'nails' < M.H.G. *nēgele*; *veg* < M.H.G. *wēc* (*wēg-*); *karg* < M.H.G. *karc* (*karg-*). It is preserved also after *ɣ*: *zíngŋ* < M.H.G. *singen* (contrast modern German *zíng*); *jung* < M.H.G. *junc* (*jung-*) (contrast modern German *juy*).
- b. In certain words with M.H.G. *-c-* *-g-* Judeo-German has generalized *-k*: *tsvayk* 'tongs, pincers' < M.H.G. *zwange* (note retention of *w* as *v* in Judeo-German); *sok* 'juice' <

M.H.G. *soc*, *sog*- (parallel to more normal *suc*, *sug*-), which, however, is more likely borrowed, as indicated by its *o*-vocalism, from Russian *sok* 'juice' (Germanic loan-word) than directly derived from M.H.G. In nouns and adjectives ending in M.H.G. *-ic* (*-ig*-) Judeo-German has regularly *-ik*: *kínik* < M.H.G. *künic* (*künig*-); *hónik* < M.H.G. *honic* (*honig*-); *lébadik* 'alive' < M.H.G. *lebendic* (*lebendig*-).

- c. In a few cases Judeo-German has *k* < M.H.G. *g* not alternating with *-c*: *béykn* 'to long for' < M.H.G. *bangen* 'bange werden', *béng* 'Angst, Sorge'; *kúkn* 'to look' < M.H.G. *gucken* (here *g*—*k* may have become assimilated to *k*—*k*). Compare *t* < M.H.G. *d* (15 e) and *p* < M.H.G. *b* (10 d).
- d. In *art* (e.g. *es árt mir nit* 'it does not concern me, I don't care') *g* seems to have been syncopated between *r* and *t*; cf. M.H.G. *arget* 'macht besorgt, arg'.
- e. *g* has developed as hiatus-filler in *gišrign*, past participle of *šratén* 'to yell'. Possibly *r*—*g* as dissimilated product of *r*—*r* of M.H.G. *geschrirn*.

20. M.H.G. *k*.

This sound is everywhere preserved: *korn* < M.H.G. *korn*; *kez* 'cheese' < M.H.G. *käse*; *klen* < M.H.G. *klein(e)*; *kríxñ* < M.H.G. *kriechen*; *knédł* 'dumpling' < M.H.G. *knödel*; *hákñ* < M.H.G. *hacken*; *zak* < M.H.G. *sac* (*sack*-); *avék* 'away' < M.H.G. *enwéc* (not levelled out to *avég* because no longer felt to be connected with *veg* 'way'). M.H.G. *qu* (i.e. *kw*) appears as *kv*: *kvéln* 'to bubble with joy' < M.H.G. *quellen*.

Such, in brief, is the history of the Middle High German vowels and consonants in Judeo-German. It will have been noticed that the changes in the Judeo-German consonant system, when compared with its Middle High German prototype, are not as radical as in the case of the vowels and that many of the important consonantal developments

are common to modern German. As in the vowel system, so also in the consonant system, simplification, though to a less degree, has taken place (e.g. M.H.G. *pf* is represented by *p* or *f*, according to its position).

ACCENT.

In stress accent no changes have taken place, the stem (normally the first) syllable, according to the well-known Germanic law of accent, regularly receiving the stress. In *lebədik* 'alive' < M.H.G. *lebendic* the accent falls on the first syllable, not, as in modern German *lebendig*, on the second; the lack of stress in the second syllable is probably responsible for the syncope of the *n*. With the Judeo-German accent of this word cf. the following from the epic of 'Kûdrûn' (I, 29):

'Si sprach: "sô rîche nieman ist lebendic erkant".'

Exceptions to the general law of Germanic accent are exceedingly rare. A case in point is *švestykînd* 'cousin' (literally 'sister's (or brother's) child').

Hebrew loan-words (Hebrew words are either ultimate or, far less frequently, penultimate in accent) accommodate themselves so far to the German rule that, if ultimate in accent, they throw their stress back to the penultimate syllable; words of more than two syllables, however, cannot be accented back of the penult. This sweeping and simple law of penultimate accentuation of Hebrew words holds, it should be noticed, not merely for such as have been incorporated into Judeo-German, but for the present pronunciation of Hebrew in general. In the case of naturalized words a final vowel (whether followed by a consonant or not) has, in accordance with the genius of the

German language, been weakened to the dull *ə*. Thus Hebrew *x^azīr* 'pig' > Judeo-German *xázɣ*; *lāšōn* 'language' > *lósɲ*; *gannāβ* 'thief' > *gánəf*; *mišpāxā* 'family' > *mišpóxə*. In reading Hebrew as such, however, these final vowels are not reduced; the words given above are then pronounced: *xázir*, *lósɛn*, *gánov*, *mišpóxo*. These examples show incidentally that the Hebrew *ā* and *ō* developed, together with the Middle High German *ā* and *ô*, into *o* and *ə* respectively.

As regards the accentuation of the Slavic (Russian and Polish) loan-words, the rule is, on the whole, to keep the native accent. It should be noted that such words hold relatively the same position in Judeo-German that, e.g., French words with un-German accent (such as *Position*, *raffiniert*) hold in modern German.

Besides stress accent, a very important factor in the pronunciation of Judeo-German is the musical intonation of the sentence. In the normal pronunciation of sentences there is a very considerable variation of musical cadence. Simple statements, interrogation, surprise, indignation, emphatic insistence, irony, and many other moods are differentiated by these differences of cadence; it would be possible, indeed, to construct a rather long series of types of sentence-cadence for the pronunciation of word groups in various emotional keys, some of which would show excessively violent rises and falls in pitch. This mobility of musical expression gives Judeo-German much of its characteristic acoustic effect. The rhetorical effectiveness of Judeo-German speech is increased by the use of a large number of modal particles (cf. German *doch*, *ja*, *schon*, *wohl*, *mal*), which are partly Middle High German, partly Slavic, and partly Hebrew in origin. Altogether, they neatly hit

off many nuances of mental attitude and despair in many cases of adequate translation.

I trust that I have shown that a thorough investigation of the phonology, morphology, and vocabulary of Judeo-German will prove abundantly fruitful to students of German dialectology.

STUDIES IN THE BOOKS OF SAMUEL

BY M. H. SEGAL, Newcastle-upon-Tyne.

II

THE COMPOSITION OF THE BOOK.²

THERE is a general agreement among critics on the question of the literary character of the work which we are studying in these papers. Some forty years ago, Julius Wellhausen laid it down as a principle that the so-called 'documentary hypothesis' of Pentateuchal criticism must be applied also to our book. His followers and disciples have obeyed loyally, one may almost say piously, the precept of the Master. They have accepted the 'documentary hypothesis' as a firmly established truth and have repeated, in a more or less extended form, the arguments and proofs advanced by the Master, without pausing to inquire into their soundness or adequacy. But in spite of this unanimity and assurance of the critics, the present writer thought it necessary to undertake a fresh examination with a free and open mind of the whole question of the Composition of our book. After a painstaking inquiry into the subject, he has arrived at the conclusion that the arguments of the critics are unsound, their proofs inconclusive, and their general hypothesis unreasonable and improbable. He has found that the undoubtedly difficult problems of the com-

² For convenience sake, and in accordance with Hebrew tradition, we shall throughout these papers speak of the two books of Samuel as one book.

position of our book can be solved by another hypothesis which he feels will prove more rational in itself, and in greater accordance with the facts presented by our book than the hypothesis of the critics.

In the following pages we propose first to discuss the general character of the hypothesis of the critics and its application to those sections of our book from which it is said to derive its main support. We shall then show that it fails to solve the problems of these sections, and we shall submit an alternative and, to our mind, a more satisfactory solution. Finally, we shall undertake a detailed examination in the light of our own theory of the whole book, and discuss in particular those sections and passages, the integrity of which has been either questioned or altogether denied by the critics.

1. The 'documentary hypothesis' of the critics, which we prefer to call the 'redactional hypothesis', may be briefly summarized as follows: Our book is not the work of an author, or authors, who narrated in their own or in borrowed language the events contained therein. It is rather the work of one or more redactors who pieced together excerpts from various documents, differing in age, in point of view, and in reliability, and often mutually overlapping and contradictory. These redactors dealt freely with their material, altering, omitting, and supplementing according as it suited their purpose or their religious views. They often tried, more or less skilfully, to hide or glose over the inconsistencies between the various excerpts, but often, again, they allowed these inconsistencies to remain.

2. Now, such a hypothesis in the case of a book which bears on the face of it a fairly homogeneous character requires conclusive and irrefutable evidence for its justifi-

cation. A work like the Books of Samuel, which displays a certain unity of plan and unity of purpose, must *prima facie* be credited also with unity of authorship, unless there are very strong proofs to the contrary. The critics assert that they can produce such proofs. They maintain that our book contains sections which contradict and overlap each other, which display divergent and inconsistent points of view, and cannot, therefore, have emanated from one and the same author. It may, however, be asked: if one author could not have written these mutually contradictory or mutually exclusive passages, how could one and the same redactor have combined them in one and the same work? The redactor evidently regarded these passages as supplementing or complementing one another. How could he have failed to overlook their inconsistencies and divergencies? He was not incompetent or devoid of the critical faculty. This is amply proved by the great skill with which he manipulated his material, so that he has only been found out during the last forty years, and then only after the application of an intricate and laborious process of reasoning by some of the most brilliant intellects of latter-day Germany. Was he then a deliberate impostor or a dishonest jester? The critics sometimes credit their redactors with all sorts of extravagances, but as a rule they recognize the redactor's sincerity and *bona fides*. The fact, therefore, that competent and honest redactors combined these passages must tend to prove that the alleged inconsistencies of the passages cannot after all be of so serious and striking a character as the critics maintain. But what is true of a redactor dealing with a mass of excerpts from written documents may also be true to an equal degree of an original writer dealing with a mass of

tradition, oral or written, derived from different quarters and different generations. We must remember that our book is not a scientific treatise on logic, or an artistic work of the imagination. It is only a history compiled from oral or written traditions which must have passed through many mouths and many hands before they found their place in our book. We have, therefore, no right to demand of our book a perfect freedom from any particular inconsistencies, irrelevances, or even contradictions in minor details. All that we can expect from it is a certain homogeneity of material, and a *general* consistency in the presentation of events and in the characters of its heroes. Our book does offer us such a homogeneity and such a general consistency. And if it is admitted that the discrepancies displayed by our book could have been passed unchecked by a compiler of written excerpts, why not admit likewise that they could have been passed also by a compiler of oral traditions? Why deny to an author the latitude allowed to a redactor?

However, this argument may be dismissed by the adherents of the 'redactional hypothesis' as of too general, too vague, and subjective a character. We therefore proceed to discuss in detail the composition of the two crucial sections of our book, on which the critics base their hypothesis, viz. the story of the election of Saul to the throne of Israel (1 Sam. chs. 8-12) and the story of the introduction of David to Saul's court (1 Sam. chs. 16-18).

THE ELECTION OF SAUL.

3. The account of the election of Saul contained in 1 Sam. chs. 8-12 is separated by the critics into two independent documents, viz. (i) chs. 8; 10. 17-25^a; 12,

and (ii) chs. 9-10, 16; 11. 1-11, 15. The first document we shall call, with Budde and others, E, and the second J. In E Samuel is represented as the supreme theocratic ruler of Israel. Having grown too old to rule the people by himself, he appoints his two sons as judges. The sons prove to be unworthy of their high office, and the people come to Samuel and demand that he should appoint a king over them. Samuel is displeased with this demand, and his displeasure is shared by God Himself. He receives the divine command to warn the people that the kingship would prove an oppressive burden upon them. The people, however, remain obdurate, and Samuel is finally commanded by God to give way to them, and appoint them a king (8. 1-22 a). Thereupon Samuel calls an assembly at Mizpah, where he rebukes the people in God's name for rejecting God as their king, and for demanding a human king as their ruler. He then casts lots, and Saul is elected king over Israel. When Saul is brought into the midst of the assembly, both Samuel and the people acclaim him as the chosen one of the Lord (10. 17-25 a). Samuel then formally resigns his rule in a solemn farewell address (ch. 12).

In J, on the other hand, which is the older account, Saul visits Samuel to inquire for the lost asses of his father. The prophet, however, had already on the previous day been informed by God of Saul's coming, and had been commanded to anoint him as king that he might save Israel from the Philistine oppression. Saul is cordially received by the prophet, and invited by him to partake of his hospitality, and is also immediately informed of the greatness that awaits him. On the following morning he is secretly anointed by the prophet, and is given three

signs, on the fulfilment of which he is bidden to undertake whatever opportunity affords him, as God would be with him. The three signs are duly fulfilled, but on his return home Saul does not divulge his anointment to his friends (chs. 9-10. 17). About a month later³ messengers from Jabesh Gilead arrive in Gibeah seeking aid against the Ammonites. Saul returns from the field behind his oxen, and on hearing the story of the messengers, he is seized with the spirit of God, and issues a summons to all Israel to follow him against the Ammonites. A mighty host responds to his call; he marches against the Ammonites, inflicts on them a great defeat, and rescues Jabesh Gilead (10. 27 b-11. 11). Then the people march to Gilgal, and there appoint him king over Israel (11. 15).

4. These two accounts are, according to most recent critics, complete in themselves, and independent of one another.⁴ The redactor, however, combined them into one story by cutting them into portions, thus: E (8. 1-22 a), J (9-10. 16), E (10. 17-25 a), J (10. 27 b-11. 11, 15), and again E (ch. 12). These various pieces he joined together by means of links of his own. Thus, the first two pieces are linked together by the redactional addition in 8. 22 b. This addition thus serves to sever the first part of E (ch. 8) from the second (10. 17 ff.), and also to prepare for J in ch. 9. The third and fourth pieces are linked together by the redactional addition in 10. 25 b-27 a. This addition, besides severing the second portion of E (10. 17-25 a) from

³ Cf. LXX and Driver's note *ad loc.*

⁴ Cf. especially K. Budde, *Richter und Samuel*, 172. The older critics generally hold that the writer of the first account knew the second account (9-10. 16), and deliberately altered it to suit his purpose. So Wellhausen (*Composition d. Hexateuchs*³, 241), Kuenen, and Stade.

the third (ch. 12), also serves to brush away the inconsistency between 10. 17-25 a and the second portion of J (ch. 11). For, if Saul had already been acclaimed by all Israel as their king, how is it that he appears in 11. 5 as a private individual? The redactor replies that although Saul was recognized by all Israel, yet 'the worthless' rejected his kingship, and owing to this opposition he had to retire into private life. This redactional fiction has as its sequel another addition, as fictitious as its antecedent, in 11. 12-13. Further, the redactor had to find room for Samuel in the important events related in ch. 11. And so he inserted in 11. 7 the two words *אחר שמואל*, and the whole of ver. 14, where he makes Samuel summon the people to Gilgal in order to '*renew* the kingdom', i. e. to reconfirm the election of 10. 17 ff.

5. It will be seen from this analysis that the redactor has manipulated his material with astonishing skill and adroitness. His cleverness in cutting up his original documents and piecing them together in new combinations, his critical acuteness in discovering an inconsistency and getting rid of it, are really admirable, and are only surpassed by the cleverness and subtlety of our modern German critics, who have shown up so skilfully all the redactor's literary artifices. However, to people of a simple straightforward mind the whole redactional process described by the critics must appear complicated, artificial, and altogether improbable. It is too ingenious to be true. We have no evidence that the simple and childlike mind of the ancient Hebrew was capable of such subtle, such highly developed literary criticism, as is involved in this redactional process. Further, there is nothing in the style or diction, or in the thought of the passages described

by the critics as redactional additions, to distinguish or differentiate them in any way from their context. They are declared spurious not because there is anything suspicious about them, but only because they do not suit the hypothesis of the critics. These objections may, however, be dismissed by the critics as purely subjective. We will, therefore, endeavour in what follows to submit the analysis of the critics to a strictly objective examination.

6. The critics assert that our section consists of a combination of two originally complete and independent accounts. But a little examination will show that these accounts are neither complete nor independent of each other. In E (8; 10. 17-25 a; 12) Saul is elected by the sacred lot. There is no mention in E of an anointment of Saul by the prophet. Why, then, does Samuel proceed in the same document, and immediately after the election by lot, to call Saul 'the Lord's anointed' (12. 3, 5)? Why does the prophet say in a passage belonging according to the critics to the same document E, or at least to the same stratum: 'The Lord sent me to anoint thee king over Israel' (15. 1, 17; cf. also 24. 7; 26. 9, &c.)? The references are evidently to 10. 1, i.e. to the so-called J document, thus showing dependence of E on J. The critics try to escape from this difficulty in their usual fashion, namely by fastening the blame on the redactor. E also contained, they assert, a statement of Saul's anointment by Samuel, only the redactor omitted it in favour of the statement in J (cf. Budde, *Richter und Samuel*, 172; Stenning in Hastings' *Dictionary of the Bible*, iv. 385 b, foot-note). Plain unbiassed people will, however, prefer to explain these references in the most obvious and most reasonable way, viz. as based on the statement in 10. 1.

7. Again, E has no reference whatever to an acquaintance between Saul and Samuel until after the former's election by the lot. Before the lot was cast neither the people, nor Samuel, nor Saul had any inkling whatever as to who was going to be elected. The result of the lot before its declaration was a complete mystery to all concerned. What, then, prompted Saul to hide himself away from the assembly at Mizpah (10. 22)? It cannot be that he slipped out after his name had been mentioned. For the text says explicitly that Samuel ordered the people to stand according to their tribes and clans; that after the tribe of Benjamin had been 'taken', he brought forward that tribe family by family, and then the family of Matri man by man, when Saul was 'taken' (10. 19b-21; cf. LXX; so Kimḥi and Joseph Kaspi, *Adné Keseḥ*, ed. I. Last, i. 16). Saul must have been present during the latter process, for he had no reason, any more than anybody else, to suspect that he would be the chosen one. His slipping away after his name had been called out would certainly have attracted the greatest possible attention. At any rate, his presence before would have been noticed by his clansmen, or at least by the members of his own family. The inquiry made of the oracle *הבא הלאם האיש* (10. 22, LXX, cf. Driver's note) is thus rendered absurd and impossible. The only explanation of the incident that is at all reasonable is that Saul had left the assembly before the lots were cast, and before the people were arranged according to tribes, and the tribes according to clans and families; and that Saul knew beforehand that he would be the chosen one of the lot, having already been previously designated for the high office, as described in 10. 1 f.

8. Further, according to the analysis of the critics, ch. 12 is the direct continuation of 10. 25 a, and the address contained therein was the farewell address delivered by the prophet immediately after the declaration of the lot. But how could Samuel say at that moment *הנה המלך ממהלך לפניכם* (12. 2)? Such words could only have been spoken after Saul had proved himself a capable leader of the people, as is related in ch. 11. Thus ch. 12 is acquainted with ch. 11 and dependent upon it.

9. Again, according to the analysis of the critics, E represents Saul as securing the throne by the mere fact of having been elected thereto by the lot. The all-powerful prophet immediately transferred to him the sovereignty which he had wielded over the people; and the whole nation meekly submitted to the rule of an inexperienced, untried young man without murmur or misgiving. Is this possible? Would even a credulous writer have believed such an improbable story? We know that the people remained loyal to Saul to the very end. His reign was never marred by any rising or rebellion, such as troubled the reign of the greater and more successful ruler who followed him. And so great was the people's attachment to the person of Saul that after his death they preferred the rule of his weak son to that of the brave and clever David, their old favourite. Is it not natural to expect that some disaffection would have displayed itself, at least at the outset of his reign, a disaffection which could only have been suppressed by some exceptional achievement on the part of the young king, combined with the overpowering influence of the great prophet, his friend and supporter, who rallied round him the whole people, and secured their permanent and unshaken devotion to the new ruler? In

other words, are not 10. 27 and the whole of ch. 11, including vers. 14-15, the logical and indispensable sequel to 10. 17 ff.?

10. Finally, the critics tell us that the election of Saul took place in Mizpah according to E, and in Gilgal according to J. E knows nothing of Gilgal in connexion with Saul's election. If so, it is strange that both in 13. 8 ff. (J according to the critics) and in ch. 15 (E according to the critics), Samuel and Saul are taken out of their way and brought to Gilgal for the sentence of rejection on Saul. The fact that E, too, places the rejection of Saul at Gilgal shows that E also knew of the connexion of Gilgal with Saul's election, as described in 11. 14-15.

Thus, these considerations prove conclusively that E is incomplete, and that it is dependent on J.

11. But neither is J complete in itself.

For according to the analysis of the critics, J is ignorant of an agitation among the people for the appointment of a king. God Himself took the initiative and offered the people through His prophet a king who would save Israel from the Philistines. If so, Saul, when he came to Samuel in ch. 9, could, like anybody else in Israel, have had no knowledge whatever of the prophet's intention with regard to himself, or of the whole plan of establishing a monarchy in Israel. How was it, then, that he at once took in the meaning of Samuel's otherwise cryptic remark: *ולמי כל* (9. 20 b)? His answer in the following verse proves conclusively that he knew well that Samuel was looking out for a suitable occupant of the throne of Israel.

Again, why did Saul's uncle, on hearing that Saul had visited Samuel, ask with such eagerness, *הנידה נא לי וגו'* (10. 15)? How can one explain this eagerness in the

sayings of a person who, according to the critics' interpretation of J, was but an obscure village seer and clairvoyant? Evidently Saul's uncle had a higher opinion of Samuel's importance than the critics; and he was aware of the fact that Samuel was looking out for a suitable young man to occupy the throne of Israel, as related in 8. 22.

12. Further, how after all is one to explain the authoritative action of Saul in peremptorily ordering all Israel to muster together for the battle against the Ammonites, and the unanimous response of all the people (11. 7)? Barak, Gideon, and Jephthah (Judges 5. 14 ff.; 6. 35; 12. 2-3) had to beg the people, and not quite successfully, to rally round them in order to expel the invader. But this obscure, shy young Benjamite simply issues a *fiat*, threatens disobedience with heavy punishment, and all Israel take fright, and meekly obey the orders of an unknown, inexperienced young man. The only explanation possible is that Saul was then no longer an obscure private individual, but the king elect of Israel, as described in 10. 17 ff., but that, for reasons which we shall mention later, he had not yet assumed the actual office of king.

13. Finally, if the people had not been clamouring previously for the appointment of a king, it is exceedingly strange that by a sudden impulse and without any previous deliberation as to the need and desirability of a king, or the fitness of Saul for the kingly office, the people, hitherto so clannish and so jealous for their tribal independence, should have proceeded straight from the battlefield of Jabesh Gilead to the sanctuary of Gilgal, and there and then without any preparation whatever elected Saul as their king! Even the writer of J must have known that the people's resolve to change their old patriarchal

constitution into that of a monarchy could not have been taken so suddenly and instantaneously, particularly as the people were living under Philistine overlordship. Was there none circumspect enough in the whole host of Israel to counsel caution, and warn the people that their rashness would incense the Philistines and bring down upon them the oppressors' dire vengeance? And it is more remarkable that standing alone without the support of so powerful a personality as the Samuel of E, and without the *prestige* lent to his appointment by the decree of the sacred lot, Saul should have met with no opposition whatever on the part of any portion of his own people, of whom so many were lukewarm and even faithless to the national cause, as is proved by the large numbers who had definitely gone over to the Philistine side (14. 12). Thus we are confronted in J with the same difficulty which met us in E (cf. above, § 9), viz. how did Saul succeed in securing at the very outset of his reign, and in holding right to the end, the unanimous support and attachment of Israel?

14. It is evident from what we have said above that taking all the facts into consideration the only rational and logical account of the appointment and the accession of Saul is something similar to the account presented to us in our present text, which is somewhat as follows: The people had, for one reason or another, decided to organize themselves into a monarchy. They applied to Samuel, the leading personality of the day, to find them a suitable occupant of the high office of king; Samuel's choice fell upon Saul, whom he first appointed privately, and afterwards publicly by the sacred lot cast in the presence of the whole people. Some persons, however, expressed dissatisfaction with Samuel's choice, perhaps for some private

reasons, or because they had another candidate in view. Owing to certain causes, such as the fear of the Philistines and the disaffection fomented by his opponents, Saul did not immediately assume office. When the appeal for help came from Jabesh Gilead, he issued on his own authority as king elect, combined with the authority of Samuel,⁵ an urgent summons for a general military levy, to which the people responded in a remarkably unanimous fashion. His magnificent victory over the Ammonites greatly impressed the people, convinced them of his fitness for the kingship, and silenced for ever his opponents and detractors. Then the people, with Samuel at their head, marched to Gilgal, and solemnly ratified of their own free will the choice of Saul as king, previously made by the sacred lot independently of their consent, after which Samuel delivered an impressive address to both king and people.

15. What, then, has forced the critics to cut up our section into a number of pieces and to assign them to two distinct documents? The critics answer that their analysis has been forced upon them by the irreconcilable discrepancies revealed in the various parts of our section. We may summarize the evidence for the critics' analysis under the following three headings:

(i) *Origin of the Monarchy.* In J Israel suffers from the Philistine oppression, and cries to God for deliverance. In response to this cry God commands Samuel to anoint

⁵ 11. 7: **וַאֲחֵר יִמְוָאֵל**. The critics, however, audaciously declare these two words to be a redactional interpolation, but for no other reason except that the two words clash with their hypothesis; cf. above, § 4. This is a characteristic example of the 'critical' method. There is no need to defend the originality of the words, but we may add that a late interpolator would certainly have placed Samuel before Saul.

Saul, who would save the people from the Philistines (10. 16). In E, on the other hand, the external condition of Israel is entirely favourable. The people demand a king, because they want to be like the heathen nations. Their demand is treated by God and by His prophet as an act of wanton rebellion, and is only acceded to reluctantly.

(ii) *Character of Samuel and his part in Saul's election.*

In J Samuel is a village seer, a mere clairvoyant who for a consideration gives information concerning lost property. His activity is confined to his own little district, and his very existence is unknown to Saul, who lives but a few miles away from Ramah. Samuel is employed by God for one purpose only, the anointment of Saul. After this act he retires from the scene, and leaves everything to the workings of the Divine spirit in Saul. In E Samuel is the Judge of Israel, who rules over the people as God's representative. In this capacity he elects a king for the people, and solemnly hands over to him the reins of government.

(iii) *Saul's position after his election by the lot.* The messengers of Jabesh Gilead are sent out to 'all the border of Israel' (11. 3), and come to Gibeah just as they came to other places. Saul is represented as a private man following the ploughing oxen. He is only informed of the embassy from Jabesh Gilead after he has inquired for the cause of the people's weeping. This is inconsistent with the position ascribed to him in 10. 17 ff. as the duly elected king of Israel. The men of valour who accompany Saul in 10. 26 do not appear in ch. 11. 'The sons of worthlessness who by their action prevent him from assuming the kingly office, are apparently so few in number that

they can be threatened with death in 11. 12-13; yet it is presumably on their account that the election of Saul requires confirmation.⁶

16. Of these three arguments only the first has any force. The second and third are based on a mistaken interpretation of our text. The critics try to make out that Samuel is represented in our book in varying and not quite consistent characters: as a prophet, as a judge of the type found in the Book of Judges,⁷ and finally as a mere village seer. This is an error. Samuel is represented throughout our book in one character only, viz. that of a great prophet who revived and purified the religious sentiments of the people, thereby creating greater cohesion among the tribes, and finally welding them together into a nation and placing it under the rule of a king. His activities were manifold and varying according to the needs of the circumstances. But he is always the Prophet and Religious Teacher. The same position he occupies in 9-10. 16. There is not a single word in this portion to show that the name and character of Samuel were unknown to Saul. On the contrary, Samuel is introduced in 9. 14 as a well-known personality, requiring no further description than the mere mention of his name. The details given by the maidens in ver. 13, his actions and words at the sanctuary, all stamp him as a great personality, occupying a pre-eminent position among his people. Note also his familiar and intimate relation with the Deity as revealed in the expressions 'וה' גלה את און ש' (9. 15), 'וה' ענהו (ver. 17).

⁶ Stenning, *op. cit.*, 386 a; cf. Budde, *op. cit.*, 172 ff.

⁷ Ch. 7. But as a matter of fact, Samuel confined himself to praying and sacrificing, and, in contrast to the *Shofetim*, took no part in the actual fighting.

Further, the maidens' statement *כִּי הָיִים בָּא לְעִיר* (ver. 12) seems to indicate that the prophet was frequently away from his home for protracted periods. The reference can only be to his judicial circuits described in 7. 16–17. The importance of Samuel in the eyes of his contemporaries is also confirmed by the conversation of Saul with his uncle (10. 14–16). Saul does not say 'We came to a certain seer called Samuel', but simply 'We came to Samuel', as a well-known personality. On hearing this the uncle asks eagerly: 'Do tell me, I pray thee, what did Samuel say unto you?' He would surely not have displayed such eagerness about the sayings of Samuel if the latter had been merely an obscure village seer unknown in Gibeah. The critics have been misled in their interpretation of Samuel's character by the words of Saul's servant in 9. 6. These words, spoken probably by a lad, have been taken by the critics as a full and exact description of Samuel and his position in contemporary Israel. They really represent nothing more than the conception of Samuel in the minds of the ignorant lower classes of the people, to whom the prophet was most remarkable for his skill in revealing hidden things. That Saul should wish to present the prophet with some gift (not a *reward*) need not cause any surprise. The presentation of gifts by visitors was the usual mark of respect accorded both to kings (1 Sam. 10. 4, 27, &c.) and to prophets (2 Kings 4. 42; 5. 15, &c.). It must be admitted that the figure of Samuel does not loom so very large in ch. 9 ff. as in other portions of our book; but that is due to the fact that the narrator's interest is centred in Saul. For the moment the future king is the hero, and all others must as much as possible recede into the background. The narrative in 9–10. 16 is not a dry and

precise history, but an historical romance written with great charm and skill by a writer of certain pronounced literary peculiarities. He gives greater prominence to Saul, in order to bring out his figure into marked relief. He hides for a time the identity of the seer, and then reveals his name suddenly (9. 14). The name of the seer's city he withholds altogether, though there is no doubt whatever that it was Ramah.⁸

17. As for the third argument, it is true that in ch. 11 Saul does not appear as invested with full royal powers. But, as we hinted above (§ 14), there were two good reasons why Saul did not form a royal court immediately after his election by the lot; first, because of the genuine fear that the Philistine masters of the land would at once proceed to attack him before he had had time to raise an army of defence; and secondly, as the narrative indicates, because he had first to overcome the opposition to his election. The 'sons of worthlessness' were indeed few, but their number was sufficiently strong to foment dissatisfaction, and eventually to organize a formidable opposition. Further, there is no warrant for interpreting 10. 26a to mean that Saul formed a bodyguard of the 'men of valour'. Such an interpretation is particularly unfortunate from the point of view of the critics themselves, who hold that ver. 26 is part of a redactional addition. For in view of the appearance of Saul in ch. 11 as a private man, the redactor would be stultifying himself by asserting that Saul had immediately surrounded himself with a royal bodyguard. The fact is that *וַיִּלְכְּוּ עִמּוֹ* means no more than 'they

⁸ Budde (*op. cit.*, 171) holds that because the name of the seer's city is not given, therefore according to J Samuel did not reside in Ramah. But can this critic tell us where else Samuel resided?

accompanied him on his way'. Had the writer meant to say that they remained with him permanently, he would have said *ויהיו עמו*, as in 13. 2, or *וילכו אחריו* as in Judges 9. 4. Since, therefore, Saul found it necessary to return for a time to private life, it is not surprising that the people of Jabesh Gilead should not have mentioned Saul's name to the Ammonite king, and that they should have felt it necessary to implore for help in all parts of Israel. Nor is it surprising that Saul should have resumed for a time his former labours in the field. On the other hand, as we have already noted above (§ 12), the authoritative self-assertion of Saul and the remarkable response of the people (11. 7) can be satisfactorily explained only by the fact that the people knew him as the king-elect chosen by the sacred lot.

18. But with regard to the first argument, we are constrained to admit its soundness in general, although we cannot accept it in detail. For there is nothing in ch. 8 to show that Israel was not at the time suffering from Philistine oppression, although this oppression is not mentioned explicitly as an argument in favour of the establishment of a monarchy. The events described in 7. 5-14 took place in Samuel's middle age, while ch. 8 is placed in his old age. In the years that intervened between ch. 7 and ch. 8, the Philistines must no doubt have avenged their defeat at Ebenezer, and re-established their suzerainty over Israel. The statement in 7. 13 can only have been true for a time. The writer of that passage could not have been ignorant of all the great struggle with the Philistines which lasted the whole reign of Saul and part of David's reign also. He must have heard, for example, of the invasion of Israelitish territory by the Philistines which

resulted in the death of Saul at Gilboa. And we have no right to accuse him of deliberate imposition. All that we can say is that he is guilty of an undue exaggeration, of want of precision, and of a certain looseness of expression, caused no doubt by his enthusiasm for the achievements of the religious revival led by Samuel. Thus, the writer of ch. 8 does not contradict the references to Philistine suzerainty contained in 9. 16; 10. 5; he only ignores them. Again, the statement in ch. 8 that there was a strong agitation among the people for the institution of the monarchy, and that this agitation forced Samuel to look out for a king, is not contradicted in 9-10. 16. On the contrary, as we have shown above (§§ 11, 13), this narrative knows of the agitation and assumes it in at least two passages (9. 20-21; 10. 15). Further, it is not correct to say, as some critics do, that the writer of 9-10. 16 displays friendliness towards the monarchy, as opposed to the hostility of 8; 10. 18 f.; 12. The writer is only interested in the person of Saul, but not in the institution which Saul represented. Sympathy with Saul as an individual was not lacking even in those who were opposed to him as king; cf. 15. 35.

19. Nevertheless, it must be admitted that there are important differences between 9-10. 16 and the rest of our section, though we must not with the critics magnify these differences into actual contradictions. The differences between the two portions of our section extend to the vocabulary, the diction, the method of narration and of the presentation of facts, and to the general spirit and purpose of the two narratives. They each represent different points of view and emphasize different facts, though not actually contradicting or excluding each other. Hence

we are bound to conclude that they are the works of two different writers, of whom the author of 9-10. 16 was the earlier. But we must reject the 'redactional hypothesis', which asserts that the two narratives were pieced together by a redactor in the manner described above (§§ 1, 3, 4). For, as we have shown, the two narratives are not contradictory, but supplementary, and they are also incomplete by themselves. How, then, shall we explain the presence in our section of the work of two different writers? I propose to explain it by what we may term, for want of a better name, the *authorship hypothesis*. By this I mean that the whole of our section (chs. 8-12) was written as it lies before us by the *author* of our book; ch. 8; 10. 17-27; 11; 12 is his own original composition, while 9-10. 16 he borrowed from an older work which dealt with the story from a different point of view. That work, as we have indicated above, must also have given an account of the popular agitation for the appointment of a king, but our author did not find that account suitable for his purpose, and so he gave us his own account of it. He may also have derived ch. 11 from that source, but there is nothing very distinctive about that chapter, and I see no reason for denying it to our author. The huge numbers in 11. 8 and the separate mention of Judah favour the view that the author of the chapter lived a long time after the event he described. The passages marked by the critics as redactional additions (10. 25 b-27 a; 11. 12-14) are, as we have shown, essential for the development of the story; they are inseparable from their context and indistinguishable externally from the verses preceding and following them. We, therefore, have no hesitation whatever in assigning them to our author.

We now proceed to examine the second crucial section of our book, and there also we shall find that the 'redactional hypothesis' breaks down utterly, while our own 'authorship hypothesis' offers a reasonable and satisfactory solution to the problems presented by the composition of that section.

THE ADVENT OF DAVID.

20. The story of the introduction of David to Saul, contained in chs. 16-17, consists according to the analysis of the critics of a combination by a redactor of two independent and irreconcilable accounts, viz. 16. 14-23 and 17-18. 5. The first account is the direct continuation of 14. 52, and is the older and the historical one. It tells how Saul becomes a sufferer from some mental derangement, and how on the advice of his courtiers he seeks for a skilled musician to relieve his suffering. One of his attendants recommends to him a son of Jesse, whom he describes as a skilled musician, a brave and experienced warrior, a man of prudence and of a handsome appearance. David is then brought to the court and the king soon grows very fond of him, and makes him his armour-bearer. At the king's request of Jesse, David remains permanently attached to the king.

The second, which is the younger and the legendary account, relates how in one of the many wars between Israel and the Philistines a certain Philistine giant challenges the Israelitish host to produce a champion who would engage him in single combat, but none of the Israelites dares to accept the challenge. Then the shepherd lad David is sent by his father to visit his three elder brothers who are serving in the battlefield. The lad hears the

challenge and undertakes to engage the Philistine. The king offers him his armour, but the young lad does not know how to use it. Eventually he slays the Philistine with his sling and some pebbles which he carries in his shepherd's scrip. On his triumphant return with the Philistine's head in his hand, the king inquires for his name and family. He then takes the lad into his service, and Jonathan, who falls in love with him, secures his friendship by means of a solemn covenant.

This double account is introduced by an apocryphal story of the secret anointment of David by Samuel among his brothers (16. 1-13), a story which, the critics declare, is related to ch. 17, but written by a later hand.⁹

21. It will be seen that, as in the story of the election of Saul, so also in this section the alleged redactional process is very complicated. The redactor begins his story with 14. 52. After giving one single verse, which should have been followed by 16. 14, he suddenly breaks off and inserts ch. 15, then 16. 1-13, and only then resumes the thread of his original account, which began in 14. 52, by continuing with 16. 14-23. He then proceeds to insert in ch. 17 another independent account of David's coming to Saul, which contradicts and refutes the account just concluded. This is, indeed, a very strange proceeding, but we have already become accustomed to the vagaries of the critics' redactor, and need not be unduly surprised at his insertions, however long, or at his self-contradictions, however glaring. Nevertheless, we have a right to demand from the critics that at least each of the constituent documents which they obtain by this astonishing analysis

⁹ Wellhausen, *op. cit.*, 247. His arguments and conclusions are, as usual, piously repeated by all his disciples and followers.

of theirs should be self-consistent, logical, and free from any discrepancies. But this, as we shall show, is not the case.

22. The first account given in 16. 14-23 begins according to the critics with 14. 52. It knows nothing of the rejection of Saul in ch. 15 or of the anointment of David in 16. 1-13. It is the continuation of chs. 13-14 which in their turn are the continuation of the source J in the story of Saul's election (§ 3).¹⁰ But can 14. 52 really be the beginning of 16. 14-23? That verse tells us that on account of the fierceness of the struggle with the Philistines Saul attached to himself every brave warrior that he could discover. This, the critics say, is intended to introduce the story of Saul taking up David in 16. 14-23. But in 16. 14-23 we hear nothing of the Philistine war, and David is not brought to Saul as a likely champion against the Philistines, but only as a musician to soothe the king's troubled spirit. The statement in 14. 52 suits not 16. 14-23, but rather ch. 17, where David becomes attached to Saul through his heroism against the Philistines. As a matter of fact, there is absolutely no need whatever to wrench 14. 52 violently out of its present context and tack it on to some passage two chapters below. It is quite intelligible where it stands, for it refers back to the account of Saul's wars in 14. 46-8, and to the mention of Abner, Saul's chief of the host, in ver. 50 b (ver. 51 is parenthetical). 14. 52 has certainly no connexion whatever with 16. 14-23, and the critics will have to find another beginning for J's account of David's Coming to Saul, since 16. 14 is too abrupt to be considered the beginning of the account.

¹⁰ Ch. 9-10. 16, 27 b-11. 11, 15. The story of Saul's rejection in 13. 8-14 is according to the critics an interpolation. We shall deal with this question later on.

Further, how is it that the writer of 16. 14-23, who, according to the critics, is ignorant of Saul's rejection, should fail to explain the cause of the king's strange affliction? The origin and cause of such a mysterious and calamitous event in the king's life must surely have been a subject of deep interest to the historian. Why does he not tell us anything about it?

23. The whole structure of the critics is based upon the assumption that there is a radical difference in the representation of David between chs. 17 and 16. 14-23. In ch. 17 David is a young shepherd lad ignorant of the use of weapons of war, while in 16. 14-23 he is a full-grown and experienced warrior. But this assumption is altogether incorrect. David bears the same character in both stories. He is expressly described in 16. 19 as being a young shepherd. And even if we allow the critics to delete the phrase **אִשֶּׁר בִּנְעֹאן**—though there is no other reason for rejecting the phrase, except that it contradicts the hypothesis of the critics—there still remains the fact that in ver. 19 as well as in ver. 22 David is described as being still in a state of tutelage to his father, a state quite unsuitable for a **גִּבּוֹר חַיִל וְאִישׁ מִלְחָמָה** (ver. 18). And after he has spent some time with the king, David is still considered unfit, presumably by reason of his youth, to occupy any other military position than that of armour-bearer to the king, a position equivalent to that of the squire of the mediaeval knight, and usually occupied by youths; cf. 14. 1, 6 (**הַנֶּעֱר נִשָּׂא כְלִי**); 20. 35, 40; 31. 4 (**כִּי יָרָא מָאֵד**) proves him to have been a youth); II 18. 15. It is true that this representation is not quite consistent with the description of David given by the courtier in 16. 18, a description which forms the foundation and starting-point of the critics'

analysis. But the courtier's description must be taken *cum grano salis*. It was evidently that of a friend of David who was anxious to create in Saul's mind a highly favourable impression of the young musician. For this purpose he exaggerated David's accomplishments, knowing full well that the young hero would in a short time justify in full the eulogistic description of his friend.¹¹ For where did David prove himself a *גבור חיל ואיש מלחמה*? He could not have done it in some private war of his own. He must have engaged in the national wars carried on by Saul. If so, it is strange that in view of 14. 52 Saul or Abner should not have heard of him before. But, as stated, the whole description must be regarded as the flattering exaggeration of a friend. It is also possible that the description is anachronistic, i.e. written from the point of view of the narrator himself.¹² In any case, the description must not be taken in a literal sense, since, as we have shown, it is inconsistent with the representation of David in the rest of the passage. Thus the whole structure of the critics, which rests mainly on the literal interpretation of this verse, tumbles to the ground.

24. Where, then, are we to find the beginning of the account of David's coming to Saul? There, where all simple unbiassed readers have always found it, viz. in 16. 1. For the departure of the Lord's spirit from Saul is evidently

¹¹ The ancient Rabbis already interpreted the passage as an exaggeration; cf. Sanhedrin 93 b, and Rashi, *ad loc.* Some have proposed to delete the words *גבור חיל ואיש מלחמה*. But one must strongly deprecate the mutilation for our own convenience of an otherwise honest and intelligible text. Besides, *גבור חיל ואיש מלחמה* is obviously parallel to *ואיש תאר*, which is certainly genuine.

¹² We shall have occasion later on to point out many other cases of anachronisms in our book.

the consequence of the rushing of the Lord's spirit upon the newly anointed David (ver. 12).¹³ The two parts of ch. 16 (vers. 1-13 and 14-23) are closely connected with each other, being both of one piece and by one hand. Only we must assume that some time had elapsed between the anointment of David and his coming to Saul's court, since in the second part he appears somewhat older than in the first part.

25. But the critics will object to this very obvious theory of the unity of ch. 16. They will tell us that the two parts of ch. 16 cannot belong to one and the same writer, because vers. 14-23 is good sober history, while vers. 1-13 is nothing but a legend, a mere 'Midrash'. It may, however, be asked, What right have the critics to credit the ancient writer with their own views of the comparative historicity of the two events, or with their own modern distinction between historical fact and historical legend? To the ancient writer the anointment of David by Samuel may have been as much a historical fact as the insanity of Saul and the minstrelsy of David. But I go further and assert that the story in vers. 1-13, however inaccurate in its details, may yet rest upon a basis of truth. There is no doubt that the estrangement between Saul and Samuel, and the rejection, if not the deposition, of the king by the prophet are historical facts. Equally a fact is the existence of a friendship between David and the prophetic and priestly party of which Samuel was the head. When David is forced to flee from Saul, he first of all seeks

¹³ The 'Spirit of the Lord' is conceived as something quantitative which can be removed from one person and placed upon another; cf. Num. 11. 17, 25; 1 Kings 22. 24; 2 Kings 2. 9.

a refuge with Samuel (19. 18 ff.),¹⁴ and next with the priests (21. 2 ff.). Ahimelek might have been quite honest in his assertion that he had not known that David was a fugitive. At the same time, he did not deny that friendly relations had for a long time existed between David and himself (22. 15). Had that not been the case, then even Saul, tyrant that he had now become, would not have dared to destroy the whole priestly clan on a mere trumpety charge of treason. Again, it is a significant fact pointing in the same direction, that as soon as David had formed his band we find among his followers a prophet in the person of Gad (22. 5). It is, therefore, quite probable that, at least after he had become a popular hero and a successful military leader, David had been designated by Samuel and his friends the future king of Israel. The fears inspired in Saul's mind by the ambition and the continually rising popularity of David, as compared with his own growing isolation (22. 8), which resulted from his breach with Samuel, were thus not altogether without foundation. This view is strongly confirmed by many passages in our book, cf. 23. 17; 24. 21; 25. 30; II 3. 9-10; 5. 2 b. Of course, the critics deny the historicity of all these passages. But this much they must admit, that already at a very early period, certainly not later than the beginning of David's reign, there was a general belief that David had been appointed by God to be Saul's successor. On the basis of this historical fact the story was built up in a later generation that some time after the breach between Samuel and Saul at Gilgal, the prophet at the bidding of God anointed David as king of Israel while still a boy in his

¹⁴ We shall show later that the critics are wrong in regarding that incident as legendary.

father's house, and that the cause of Saul's well-known insanity was his desertion by the Spirit of the Lord, which had gone over to his rival. We are, therefore, quite justified in assuming that the author of 16. 14-23 reproduced this story in 16. 1-13, believing it to be just as true as the incident described by him in 16. 14-23.

26. The critics have another objection to the historicity of 16. 1-13, viz. the fear of Samuel lest Saul should hear of his mission to Bethlehem (ver. 2), a fear which ill becomes the powerful personality of ch. 15. But here the critics display a lack of consistency. They have been reiterating their theory that the representation of Samuel as a great personality, who ruled the people and made and unmade kings, is a later conception. The earlier and more correct representation they hold to have been that of a local and unimportant seer who had little or nothing to do with the great national questions of the day (cf. § 15, 16). This should agree admirably with the nervous and timid prophet of 16. 2, and the whole passage should on this ground have been assigned by the critics to the early and historical source of J. However, in reality there is no inconsistency between the conception of Samuel in chs. 8, 15 and that in 16. 2. The awe-inspiring prophet of ch. 15 was after all himself but human, and liable to the weaknesses of other mortals. It would be unnatural to expect him to maintain at all times the grand overpowering fearlessness which he displays in ch. 15, when under the influence of a mighty inspiration. That Saul would have been capable of laying hands on the prophet if caught in such a treasonable act as the anointment of David, and that Samuel's fear was not unfounded, is amply proved by Saul's sacrilegious murder of the priests some time later.

27. In their further attempts to pick holes in our passage, the critics ask how it is that Samuel so far forgets his fears of Saul as to speak openly of his mission to Jesse and his sons, and why the alleged sacrifice is never performed. The answer is that Samuel had to tell Jesse of his mission in order to get him to produce his sons; he had to acquaint Jesse's sons with the object of his visit, because, according to the story, the sons had to be examined one by one, so as to find out the one who was to be anointed. That no express mention is made of the performance of the sacrifice should occasion no surprise. The sacrifice was only a minor detail of the story, and the object of the narrator is only to tell of the anointment. He leaves it to the intelligence of his readers and to their faith in the probity of Samuel to assume that the sacrifice had been duly performed in the presence of the elders of the city.

Having now established the unity of ch. 16, we must next inquire into the relation of this chapter to ch. 17.

28. Now, it would be easy for us to overcome the great difficulty presented by the discrepancies between ch. 16 and ch. 17 by adopting for ch. 17 the text of LXX B, and, with many critics, declaring 17. 12-31; 55-18. 5 to be a later interpolation. By this means we should have removed all the contradictions between the two chapters, and we should be able to ascribe ch. 17 to the author of ch. 16, the more so as the two chapters have some points of contact, cf. 16. 11 with 17. 34; 16. 12 with 17. 42. But this solution, though easy and attractive, would not be an honest solution. We have no right to impugn the integrity of a text for the sole reason that it runs counter to our theories, or that it contradicts another text which we

prefer. Ch. 17 as it stands in MT is quite intelligible and self-consistent. The suspected passages fit admirably well in their present context, and we have no right to delete them simply because they do not fit in with our preconceived notions, or with some other, it may be quite unrelated, passage. Then, again, we should have to explain the *provenance* of these deleted passages, how they arose, and what purpose their interpolation was to serve. Further, we should have to explain how a late interpolator dared to invent a story so totally at variance with ch. 16; how he dared to put into the mouth of Eliab such contemptuous and reproachful language against David, whom he knew, according to 16. 1-13, to be 'the anointed of the Lord'. These passages, therefore, must be regarded as forming an integral part of the original text of ch. 17. How comes it, then, that the author of LXX B has not got them in his translation? Are we to assume with many critics that this Greek translator played the part of the higher critic, and deliberately omitted these passages because of their inconsistency with ch. 16? This can hardly be so. Such a procedure on the part of the translator would be in strong opposition to the simple honesty, the *naïveté*, the faithfulness to their Hebrew original, which, as we know, is the almost invariable characteristic of the authors of the LXX. Again, the omissions of LXX B in ch. 17 can in no wise be separated from the omissions of LXX B in ch. 18, since the latter chapter is part of the same section as ch. 17. The omissions in these two chapters must be treated together, and both must be assigned a common origin and a common cause. But since there can be no doubt whatever that the LXX B text in ch. 18 is the more original one, and that MT in that chapter arose through

a number of expansions and repetitions,¹⁵ it follows that the Hebrew text of LXX B lacked also the suspected passages in ch. 17. How, then, are we to escape from this vicious circle? On the one hand, the disputed passages in ch. 17 are necessarily an integral part of the original text; on the other hand, LXX B really read a genuine text which did not contain these passages, as proved by their more original shorter text of ch. 18.

29. There is only one way out of the difficulty, and it is this: The author of ch. 16, who, as we shall show later, is the principal or the sole author of our book, did not find it convenient or desirable to describe in his own words David's great exploit against the Philistine champion, which was the origin of Saul's jealousy of David and of all its consequences. Adopting the same method as in the story of Saul's anointment by Samuel (9-10. 16, cf. § 19), he preferred to incorporate into his work an extract from an older document describing the incident, viz. ch. 17. It may be that the account of that older document was

¹⁵ Cf. Driver's note *ad loc.* The only notable exception is Budde (*op. cit.*, 217 f.), who, reversing the process, argues that because, as he holds, the author of LXX B deliberately omitted the disputed passages in ch. 17, therefore he must also have deliberately abridged the text of ch. 18. But the LXX text of ch. 18 is obviously of too smooth and too logical a character to be the result of a translator's tampering and tinkering. Further, the omitted passages in ch. 17 consist mainly of large blocks of verses, and their removal is comparatively an easy process, though not one of which the authors of LXX were capable. But the omissions in ch. 18 include also some short sentences and phrases, and are scattered all over the chapter. Their deletion is therefore a hard and complicated process, which, it is quite certain, was beyond the powers of the naïve authors of the LXX. Moreover, while we can easily account for the omissions in ch. 17, it is difficult to see what principle could have guided the Greek expurgators in ch. 18. Why should they have omitted 18. 8 b, 12 b, 29 b-30? It is much more reasonable to assume that these passages are scribal glosses and amplifications in the MT.

already too well known and too popular to be easily superseded by a new version. But that extract contained portions which flagrantly contradicted the author's own history in ch. 16. To overcome the difficulty, he omitted from his extract those portions which contained the contradictions, and which he considered to be contrary to historical truth, viz. 17. 12-31; 55-8. 5. A later scribe, however, who knew the source used by our author, thinking the text of the author's work to be a mutilation, inserted into the author's text the omitted passages. But noticing the discrepancy between these passages and ch. 16, the scribe added 17. 15 in order to minimize somewhat this discrepancy. It is possible that this verse was originally nothing more than a marginal gloss. As such we must undoubtedly consider 17. 50, which is partly explanatory of ver. 51. Hence arose the difference between the texts of LXX B and MT, both of which are in a sense original and genuine. LXX B used a copy derived direct from our author's original, but expurgated text, while MT is descended from a copy which had been 'corrected' and 'restored' by the later scribe. This hypothesis will on examination be found the most satisfactory solution of the problem. For in addition to the arguments given above, it may further be pointed out that whereas it is inconceivable that an author, or even an editor, could place side by side two documents exhibiting such glaring contradictions, it is quite possible that a copyist who had no responsibility whatever for either of the two accounts, and who had not fully thought out the subject, knowing that the account before him was but a mutilation of the original source, would have no hesitation in supplying the missing parts, and, as the contradictions were not of his own making,

would only make a half-hearted attempt to harmonize the two accounts.

30. But the critics may object to this hypothesis because it assumes that ch. 17 is older than 16. 14-23, and that it was incorporated into the book by such a sober historian as the author of that passage. For the critics have decreed that ch. 17 is nothing but a legend, since Goliath the Gittite was not slain by David when a youth, but almost a generation later by Elhanan of Bethlehem, one of David's heroes, as stated in 2 Sam. 21. 19. But if so, how is one to explain David's sudden leap into popularity and the jealousy of Saul? The critics answer that David did indeed perform some heroic deed, an account of which stood in the original form of our book, but that that story was deleted in favour of the late Goliath legend. But the critics fail to offer any shred of evidence for such a supposition. Had such a story existed, it would surely have left behind it some trace, however faint. Nay, we may be certain that it would have been preserved in full side by side with the Goliath story, as a sort of duplicate (cf. ch. 24 with ch. 26, &c.). On the other hand, the references to David's exploit in 19. 5; 21. 10; 22. 10 prove that ch. 17 is not a late legend. No; the story of ch. 17 is quite genuine and old. What is legendary and late in it is only the identification of the Philistine champion with Goliath.¹⁶ The story did not originally give the champion's name, either because it had never been known in Israel, or because it had been forgotten in the time of the narrator. Therefore the narrator almost throughout the chapter speaks only of הפלשתי (twenty-seven times in all). So the champion is

¹⁶ This identification is older than the Chronicler; cf. 1 Chron. 20. 5.

described also in 18. 6 and by Jonathan in 19. 5. A later hand, however, interpolated in the text, or wrote on the margin גלית שמו מנת (ver. 4), and similarly in ver. 23 (quite unnecessarily after ver. 4) גלית הפלשתי שמו מנת. These phrases bear on their face their spurious character. Had the original narrator identified the champion with Goliath, he would not have given his name in a parenthesis. He would have said in ver. 4: ושמנו גלית מנת. He would not have repeated that parenthesis in ver. 23, but would have gone on throughout the chapter to speak of the champion as גלית or גלית הפלשתי, and not simply as הפלשתי. Similarly, we must treat the name גלית in 21. 10; 22. 10 as an interpolation.¹⁷

31. The study of this section of our book has thus led us to conclusions identical with those we reached in our study of the story of the Election of Saul, viz. that the whole section is the work of one author, who, however, incorporated into his own composition material from an older source. We have seen that in both these sections the 'redactional hypothesis' proves itself to be of a highly artificial, complicated, and hence very improbable character; further, that it fails to remove the real difficulties of the text, that it creates new difficulties of its own, and that the arguments on which it rests are based on a wrong interpretation of the text. The failure of the 'redactional hypothesis' in these two sections, upon which its whole strength is said to rest, must prove fatal to its

¹⁷ After writing the above, I find that an identical solution of the difficulty is proposed by A. R. S. Kennedy in his commentary on Samuel in the *Century Bible*, p. 122.

validity in other parts of our book. On the other hand, the hypothesis put forward by the writer, that we have before us the composition not of a patchwork redactor, but of an author, who, while largely telling his stories in his own words, also utilized the work of his predecessors, will be found reasonable in itself, and also capable of solving satisfactorily most, if not all, of the problems presented by the book.

We shall now proceed to apply our 'authorship hypothesis' to the other portions of the book, and to discuss in detail those passages of which the integrity has been denied or questioned by modern criticism.

(To be continued.)

MIDRASH AND MISHNAH

A STUDY IN THE EARLY HISTORY OF THE HALAKAH

BY JACOB Z. LAUTERBACH, Hebrew Union College.

III

IN the above we have ascertained the date and the reason for the introduction of the Mishnah-form, and have traced its gradual adoption by the teachers. Now that we know the motives for its first use, and the causes for its extensive adoption, we may be able to explain the strange silence of the talmudic-rabbinic sources concerning this significant change in the form of teaching and all its important consequences.

For this purpose we need only to review the main points in this whole process and examine them with reference to their possible effect upon the theories of the later Rabbis. We shall then be able to judge whether these later teachers had cause for ignoring these facts and for remaining silent about them.

We have found that the first motive for teaching independent Halakot in the Mishnah-form was the fact that during a period of time when there was no official activity of the teachers, certain customs and practices came to be observed by the people. These customs and practices subsequently had to be recognized and taught by the teachers as religious ordinances, although no proof or scriptural basis for them existed. This means that certain religious practices, considered by the later teachers as part

of the traditional law, or as handed down from Moses, originated in reality from other, perhaps non-Jewish, sources, and had no authority other than the authority of the people who adopted them. This, of course, reflects unfavourably upon the authority of the traditional law in general. We have, furthermore, seen that the teachers themselves could not agree in regard to the origin of certain laws. While some teachers endeavoured to find artificial supports for these laws, using even forced interpretations for the purpose of giving them scriptural endorsement, others preferred to accept them as traditional laws, presumably of ancient Jewish origin. This disagreement among the earlier teachers in regard to the origin and authority of certain laws speaks very strongly against two fundamental theories of the later talmudic teachers,—theories that were considered almost as dogmas. One is the belief in an oral law, *תורה שבעל פה*, handed down from Moses together with the written Torah. The second is the belief in the validity of the laws which the wise teachers derived from the Torah by means of their new interpretations, *מדרש חכמים*. The disagreement noted above shows unmistakably that in earlier times these two theories were disputed and neither was accepted by all the teachers. For some teachers hesitated to recognize the authoritative character of certain laws merely on the ground that they were traditional. Therefore they felt constrained to seek proofs for these laws in the Torah. On the other hand, there were teachers who objected to the validity of the new interpretations by which certain laws were proved from Scriptures. They pinned their faith to the traditional character of these laws. Thus these earlier differences between the teachers could be used as a strong argument

against the authority of their teachings. This fear was actually entertained by the later teachers.

Again, we have seen, that one of the motives for using the Mishnah-form was the desire on the part of the Pharisaic teachers to assert their authority and indispensability. This is apparently at variance with another theory of the Talmud, viz. the belief that from Moses until the Tannaim there was an uninterrupted succession of teachers of the law, recognized as the chief religious authorities whose direct and undisputed successors were the Pharisees. However, the fact that the early Pharisaic teachers had to assert their authority against the opposition of the Sadducees, shows that these teachers were new claimants to authority. This fact, as we have seen, reveals the true state of affairs, viz. that the priestly teachers, the Sadducees, were originally the authoritative teachers, whom the Pharisees subsequently tried to supplant.

Thus, we see that the real conditions which accompanied the change from Midrash to Mishnah cast many unfavourable reflections upon the theories and views held by the later Pharisaic teachers, the Rabbis of the Talmud. We can, therefore, well understand the silence of the Rabbis about this important change. They did not care to dwell upon facts which, if misunderstood, would reflect on their theories. They hesitated to refer too frequently to circumstances from which some people might, by misinterpretation, draw such conclusions as would shake the foundation of the whole system of the traditional teachings.⁷⁸

⁷⁸ That the Pharisaic teachers had such apprehensions is evident from the following saying of R. Eleazar b. Azariah (or, according to Rashi, R. Joshua b. Hananiah) in *Hagigah* 3 b: *וזו נטיעה מה נטיעה זו וכמסמרות נטועים מה נטיעה זו* (or, according to Rashi, *וזו נטיעה מה נטיעה זו וכמסמרות נטועים מה נטיעה זו*), *אלו תלמידי חכמים פרה ורבה אף דברי תורה פריין ורביין בעלי אסופות*.

This was not done with the intention of suppressing historic facts, as they indeed mentioned these facts. They would speak of them to those pupils who were prepared to see things in their proper light, and were not disposed to misinterpret them. They deemed it unwise to discuss these matters before the pupils at large, fearing that there might be among them some who could be misled by opponents and thus arrive at erroneous conclusions. This is a course of conduct followed by the teachers in regard

שיושבין אסופות אסופות ועוסקין בתורה הללו מטמאין והללו מטהרין הללו אוסרין והללו מתירין הללו פוסלין והללו מכשירין. שמא יאמר אדם האיך אני למד תורה מעתה? תלמוד לומר כולם נתנו מרועה אחד, אל אחר נתנו פרנס אחר אמרן מפי אדון כל המעשים ברוך הוא (compare also Num. r. XIV, 4). We have in this saying both a defence on the part of the Pharisaic teachers for making the Torah grow and increase so as to contain more than its plain words warrant, as well as a refutation of the arguments advanced against them that their very disagreement in many questions speaks against their having reliable traditions. Against this accusation the Pharisaic teachers insist that all their teachings come from the same source, the same leader, פרנס, Moses gave them in the name of God. We see from this that such arguments were raised against the Pharisees by their opponents, for the phrase, 'שמא יאמר אדם' 'Lest some might say', is here not meant altogether in a hypothetical sense. It refers to certain people who actually raised the question. Compare the saying: יצתה בת קול ואמרה אלו ואלו דברי אלהים חיים והלכה כבית הלל 'A heavenly voice was heard declaring that both the words of the School of Hillel and the words of the School of Shammai [despite their disagreements] are the words of the living God, but the practical decision should be according to the words of the School of Hillel' (Erubin 13 b). Compare also the passage in Gittin 6 b, where Elijah is reported to have said that God declared both the opposing views of R. Abiathar and R. Jonathan to be the words of the living God. All these utterances were intended to serve as a refutation of the attacks made against the teachings of the Rabbis on account of their disagreements. We see from these covert replies of the Rabbis that the arguments of the Karaites against the Rabbanites (see below, note 85) were not original with the Karaites, but were repetitions of older arguments.

to still other subjects which they likewise deemed unsafe to communicate to the public at large.⁷⁹

This course was not altogether culpable, seeing that it was animated by no selfish motive, and that it was pursued for the sake of the cause which the Rabbis wished to serve. They were desirous of having their teachings accepted by the people as authoritative. They therefore refrained from dwelling upon the fact that there was once a time when some people did not accept these teachings as authoritative. Instead of reporting in detail the earlier struggles of the Pharisaic teachers for recognition, and their disputes with their opponents, they dwelt more frequently on the continuous chain of tradition by which they received their teachings. They mentioned only those teachers and members of the Sanhedrin who were of the Pharisaic party, whom they considered as having always been the true religious leaders of the people. They quite overlooked the fact that their opponents, the Sadducees, were the ruling authorities in former times. Instead of making explicit mention of the origin of the Mishnah-form, which would reveal the late date of so many traditional laws, they assumed the fact that the two Laws, the written and the oral, were both handed down by Moses through the agency of an uninterrupted chain of true teachers, the bearers of tradition. The result was that to most of the later teachers, especially the Amoraim, the origin and development of the Mishnah-form was almost unknown.

⁷⁹ The same was done with the records of the families which the Rabbis did not care to teach or discuss in public, fearing to cause unpleasant controversies. They would hand them over to their chosen pupils (b. Kiddushin 71 a). The same was the case with certain ineffable names of God which they communicated only to a few chosen pupils, lest the multitude misunderstand the significance of these names (*ibid.*).

The time when this change was made, the motives that caused it, and the circumstances that accompanied it, were almost forgotten. They were known only to a very few of the later teachers. These, like their predecessors, the early teachers, did not care to speak about them. The later Tannaim, and even the Amoraim, had the same reasons for avoiding the mention of these conditions that led to the adoption of the Mishnah-form as had the earlier Pharisaic teachers for their silence about these facts. Just as the earlier Pharisaic teachers, so the later teachers, i. e. the Rabbis, had to contend with more or less opposition. They had to combat those who denied their authority and rejected their teachings, i. e. the traditional law.

After the destruction of the Temple and the dissolution of the Jewish state, the Sadducees ceased to be a powerful party and lost their former influence among the people. However, it would be a mistake to assume with Büchler (*Der galiläische Am ha-Arez*, Wien 1906, p. 5) that in the beginning of the second century C. E. the Sadducees had altogether disappeared. They continued, if not as an influential party, nevertheless as a group of people holding peculiar views about the Torah, denying the binding character of the traditional law and rejecting the authority of the Rabbis who were the advocates of that traditional law. We have evidence of their existence throughout the entire tannaitic period.⁸⁰ Many sayings of the later

⁸⁰ R. Jose b. Halaftha declares (M. Niddah IV, 2) that the daughters of the Sadducees are to be considered as daughters of Israel, except in cases where we know that they are determined to follow in their observance the ways of their forefathers (i. e. the former Sadducees). The reason for this view of R. Jose is found in his other saying where he states the following: בקיאינו אנו בהן יותר מן הכל והם מראות דם לחכמים חרין. 'We are מאשה אחת שהיתה בשכונתינו שלא הראתה דם לחכמים ומחה

Tannaim refer to them, though they do not always designate them expressly by the name Sadducees. They even

very well informed about them. They all show their blood to the wise teachers (i. e. the Rabbis). There was only one [Sadducean] woman in our neighbourhood who would not do so, but she is dead now' (Tosefta V, 3, b. Niddah 33 b). Buechler (*JQR.*, 1913, 446) erroneously takes this saying of R. Jose to be merely another version of what the high priest's wife told her husband. Such an interpretation of R. Jose's saying is absolutely unwarranted. R. Jose describes conditions prevalent in his own day. He justifies his attitude towards the Sadducean women by the information that, with few exceptions, they follow the Pharisaic regulations in observing the laws of menstruation. This shows that in the time of R. Jose b. Halafta, i. e. about the middle of the second century c. e., there still were Sadducees. Their wives, however, would, in most cases, be guided by the decisions of the Rabbis in regard to the observance of the laws about menstruation. The same R. Jose also says (M. Parah III, 3), אל תתן מקום לצדוקים לרדות, 'Do not give the Sadducees an opportunity to rebel (i. e. controvert us in argument)', and this again shows that in his time there were Sadducees who still argued against the teachers.

These Sadducees are also referred to, though not expressly designated by the name Sadducees, in the sayings of other teachers of that time. Thus the passage in Num. 15. 31, 'He hath despised the word of the Lord', is explained by R. Nathan in a Baraita (Sanhedrin 99 a) to refer to one who disregards the Mishnah, על משנהו, that is to say, one who denies the traditional law. In another Baraita (*ibid.*) it is stated that the expression, 'He hath despised the word of the Lord', applies even to such people who would accept the entire Torah as divine but would take exception to a single detail in the traditional interpretation: כל האומר זה. התורה כולה מן השמים חוץ מדקדוק זה מקל וחומר זה מגזירה שזה זה. An anonymous saying in Sifra, Beḥukḥotai II (Weiss 111 b) interprets the passage, 'But if ye will not hearken unto Me' (Lev. 26. 14), to mean, 'If ye will not hearken to the interpretation given by the teachers', אם לא תשמעו למדרש חכמים. The saying continues and speaks of people who despise and hate the teachers although they accept the laws given on Sinai. All these utterances were certainly not made without provocation. There must have been people who accepted the Torah and disputed the rabbinical laws.

Another teacher, R. Jose b. Judah, living in the second half of the second century, rules that if a Gentile wishes to accept the Law with the exception of even one detail of the rabbinical regulations, we should not admit him as a proselyte (Tosefta, Demai II, 5; Bekorot 30 b). This shows that there

lingered on in the time of the Amoraim.⁸¹ Throughout the entire period of the Amoraim there were certain people

must have been Jews who rejected the rabbinical laws. Therefore it could occur to a Gentile that it was possible to become a Jew without accepting all the rabbinical laws.

This is also evident from the following story told in *Jerushalmi*, *Shebiit IX*, 39 a. A certain man who disregarded the regulations regarding the sabbatical year instructed his wife to be careful in separating the priest's share from the dough (*ḥallah*). His wife, to whom this conduct seemed inconsistent, asked him why he insisted on the observance of the *ḥallah*-law when he was disregarding the law about the sabbatical year. His answer was: The law of *ḥallah* is biblical, the regulations about the sabbatical year are rabbinical, having originated with R. Gamaliel and his colleagues, *חלה מדרב תורה*, *שביעית מדרבנן* ונמליאל וחביריו. This shows beyond any doubt that there were people who observed the Torah strictly but who denied the validity of the rabbinical teachings.

⁸¹ R. Ḥanina and Abba Areka (Rab), Amoraim of the first generation (first half of the third century c. e.), describe the Epicuros as one who despises the teachers, *המבזה תלמידי חכמים* (b. *Sanhedrin* 99 b). R. Johanan, an Amora of the second generation, and R. Eleazar b. Pedat, an Amora of the third generation (second half of the third century), characterize the Epicuros as one who says (in a tone expressive of contempt), 'That teacher', *כהן דאמר אהן ספרא*, or as one who says, 'Those Rabbis', *כהן דאמר*, *אילין רבנין* (p. *Sanhedrin* X, 27 d). Buechler makes the mistake of reading *כהן* instead of *כהן*, and therefore makes the saying refer to 'a priest' who uses that contemptuous expression about the Rabbis (*Der Galiläische Am ha-Arez*, p. 187). This is palpably wrong. The same characterization of the Epicuros is given by R. Papa, an Amora of the fifth generation (second half of the fourth century): *כגון דאמר הני רבנן* (b. *Sanhedrin* 100 a). R. Joseph, an Amora of the third generation, applies the name Epicuros to a class of people who say, 'Of what use have the Rabbis been to us', *כגון הני דאמרי מאי אהנו לן רבנן* (*ibid.*). Raba, an Amora of the fourth generation (first half of the fourth century), refers to a certain family of Benjamin the physician who said, 'Of what use have the Rabbis been to us; they have never allowed a raven or forbidden a dove' (*ibid.*). This is a saying which seems to express that we do not need the Rabbis, the biblical laws being clear enough. These people lived according to the Law, and as stated in the Talmud (*ibid.*) would occasionally consult Raba concerning some ritual question. Their ridiculing remark about the Rabbis was evidently the expression of their peculiar attitude towards the teachings of the Rabbis and of their opposition to the latter's authority.

who upheld the views and ideas of the old Sadducees. They were opposed to the authority of the Rabbis, and rejected their teachings. They were no longer called Sadducees. They were designated as 'Epicureans', אפיקורוס, or referred to without any special name, merely as 'people who deny the authority of the Rabbis and reject the traditional law'. These anti-rabbinic elements of the talmudic period formed the connecting link between the older Sadducees and the later Karaites.⁸² Knowing, that the Sadducean tendencies continued throughout the entire period of the Talmud, and had both open and secret advocates, we can readily understand why the talmudic teachers hesitated to report indiscriminately all the details of the disputes between the Pharisees and Sadducees, and also all the differences of opinion and the disagreement as to methods among the Pharisees themselves. All these, as we have seen, were the causes that led to the adoption of the Mishnah-form. The talmudic teachers were careful not to place weapons in the hands of their opponents.

Thus the strange fact is explained why no explicit report about this matter was preserved in the talmudic literature. Only a few occasional remarks which escaped the teachers hint at the actual historic conditions, and they show us that a knowledge of the real facts did exist among some of the teachers.

The Geonim, likewise, seem to have had a purpose in avoiding the mention of these significant points in the historic development of the Halakah. When occasionally

⁸² Compare Friedmann in his Introduction to the Seder Eliahu Rabba, &c., Wien 1902, pp. 97-8, and Harkavy, *Zur Entstehung des Karaismus*, in Graetz's *Geschichte*, V, pp. 472 ff.

forced to speak about the same, they reveal by their very reticence as much as by their casual remarks that they had knowledge of the facts. We pointed out above the awkward pause in the letter of R. Sherira Gaon. In answer to the question of the people of Kairuan regarding the origin of the Mishnah and the Sifra and Sifre, the Gaon was compelled to speak about the Midrash and the Mishnah. He barely touches upon the subject of the Midrash, saying merely that this was originally the exclusive form. Here he stops abruptly and turns to another subject, viz. the Baraita collections of R. Hiyya and R. Oshaya. We might assume that something is missing in the text of the letter.⁸³ This, however, is improbable. It is almost evident that R. Sherira broke off in the middle of a thought, because he deemed it unwise to say any more about the adoption of the Mishnah-form in addition to the Midrash.

This reluctance on the part of the Geonim to speak about this subject is more noticeable in the responsum of R. Zemah Gaon. The people of Kairuan inquired of R. Zemah Gaon regarding the attitude to be taken towards Eldad. Eldad reported that in the Talmud of his own people the names of individual teachers were not mentioned. As in our Talmud differences of opinion and names of individual teachers are mentioned, they found this report of Eldad very strange. Zemah answered that this was not a reason for doubting the character of Eldad and his teachings, because the method described by Eldad was indeed the earlier mode of teaching. He states that in the time of the Temple, when they taught all the traditional law in the Midrash-form, they did not mention the names

⁸³ See above, note 9.

of individual teachers.⁸⁴ Now, this would seem to be a sufficient answer, and he should have stopped here. But R. Zemaḥ Gaon adds the following significant words: והתורה אחת היא בין במשנה בין בתלמוד וממעין אחד הכל שותין ואין 'The Torah is one. It is embodied in the Mishnah and in the Talmud. All draw from one and the same source. It is not advisable to explain everything, for it is said: It is the glory of God to conceal a thing (Prov. 25. 2).' Why this mysterious admonition, and what was the secret he sought to hide? The account of the origin of the Mishnah-form, given above, will help us to understand the need for the admonition and the nature of the secret. The Karaites in the time of the Geonim denied that the teachings of the Mishnah and Talmud embodied the true tradition. They characterized these teachings as later rabbinic inventions. In support of their attitude they instanced the numerous disagreements and frequent disputes of the Rabbis of the Talmud. They argued, How could there have been tradition among the teachers when there was no agreement among them as to their teachings and Halakot.⁸⁵

We have seen above that the history of the development of the Mishnah-form reflects unfavourably upon the traditional character of the Pharisaic teachings. This was the reason for the talmudic silence about the origin of the Mishnah-form. The Geonim were silent on this point for the same reason. Neither Zemaḥ nor Sherira wanted to state exactly how long the Midrash continued in exclusive

⁸⁴ See above, note 33.

⁸⁵ See, for instance, the arguments used by Sahl ben Mazliaḥ (Pinsker, *Liḥkute Kadmoniyot*, Nispaḥim, pp. 26, 25. The same arguments are raised by many other Karaite writers.

use, for it would have shown that the Mishnah was of comparatively late origin, and that its adoption was due mainly to the differences of opinion that arose between the Pharisaic teachers and the earlier authorities, the Sadducees. When compelled to refer to the time when Midrash was in exclusive use, both Zemaḥ and Sherira used the vague term במקדש 'in the Temple times'. This, however, as we have seen, can refer only to the time before the division of the parties.⁸⁶

⁸⁶ It is possible that the use of the term במקדש in this peculiar sense was suggested to Zemaḥ and Sherira by a passage in Mishnah Berakot IX, 5, where the term is likewise used in referring to a custom that was prevalent in the Temple during the time previous to the division of the parties. The passage in the Mishnah reads as follows: כל חותמי ברכות שהיו במקדש היו אומרים מן העולם משקלקלו הצדוקים ואמרו אין עולם אלא אחד. התקינו שיהיו אומרים מן העולם ועד העולם. [The text in the editions of the Mishnayot reads משקלקלו המינים, but in the Talmud-editions the reading is משקלקלו הצדוקים, which is the correct reading. Compare A. Schwartz, *Tosifta Zeraim* (Wilsa, 1890), p. 57, note 189.] Here we have the report of a Pharisaic regulation aimed against the Sadducees who rejected the belief in a future world. Here the term במקדש, while designating the place, i. e. the Temple, also includes an element of time. 'In the Temple' evidently refers to the time prior to this Pharisaic regulation, i. e. prior to the division of the parties. The Pharisaic regulation reported in this passage originated in the very early days of the differences between the Sadducees and Pharisees, and not as Buechler (*Priester und Cultus*, p. 176) assumes, in the last decade of the existence of the Temple. This is evident from the fact that in the same paragraph the Mishnah reports another regulation which no doubt originated in the early days of the differences between the priests and lay teachers. This other regulation prescribed that a man should use the name of God in greeting his neighbour. This was either a reaction against the religious persecution under Antiochus when it was forbidden to mention the name of God (comp. b. Rosh ha-Shanah 18b and Meg. Taanit VII), or according to Geiger (*Jüdische Zeitschrift*. V, p. 107; comp. also *Urschrift*, pp. 264 ff.) it was to emphasize the claim of the Pharisees to use the name of God as the priests did. Anyhow, this second regulation originated in the very earliest days of the division of the parties. From this we may conclude that the first regulation also originated at the same time. It is quite evident that the author of this report in our

Sherira, who was merely asked about the origin of the Mishnah and the halakic Midrashim, could easily avoid mentioning anything he did not desire to state. He limited himself to answering the questions put before him. He stated that the Midrash was the earlier form, used exclusively in the earlier days of the second Temple. He was careful, however, not to define this period. He also told them the history of the Mishnah. He could well refrain from stating why the Mishnah was introduced as an additional form to the Midrash, for he was not expressly asked about this point. His questioners did not ask why a change in the form of teaching was made, and probably did not know that the Mishnah-form was the result of such an important change. Sherira did not find it necessary to enlighten them about this point.

R. Zemah found himself in a more difficult position. He was compelled to commit himself to some extent. He was expressly asked why in Eldad's Talmud no names are mentioned, while in our Talmud many names of debating teachers, representing conflicting opinions, are found. This question implied a doubt in the minds of the questioners concerning the authority of our Talmud. R. Zemah had to address himself to this doubt. He first admits that originally all teachings were given in the Midrash-form. Since in this form all teachings are presented as interpretations of the written Torah and not as opinions of the teachers, the names of the teachers were therefore not mentioned. He also avoids definite dates, using like Sherira the vague term 'in Temple times' to designate the period of the exclusive use of the Midrash. However, he still

Mishnah mentions these two regulations in the same paragraph to denote their simultaneous origin.

fears that the people might be led to doubt the traditional character of the Mishnah on account of the disputes and opposing views of individual teachers that are found in it. He therefore admonishes the questioners to entertain no doubts about the Mishnah and the Talmud, but to consider them as coming from the same source as the written Torah and as being one with the Torah. This admonition of R. Zemah Gaon is a warning against the Karaites of his day. It is of the same character as the warning uttered by Joshua b. Hananiah (Ḥagigah 3 b) against the Sadducees of his own time.⁸⁷

The result of our inquiry into the cause of the talmudic-rabbinic silence about our subject may be summed up in the following conclusions. The early Pharisaic teachers refrained from pointing to the causes for the adoption of the Mishnah-form, and to its effects upon the development of the Halakah, in order not to strengthen the position of their opponents, the Sadducees. The later talmudic teachers similarly avoided discussion of these subjects out of fear of those of their opponents who followed the old Sadducean doctrines. The Geonim, in like manner, refrained from mentioning these facts, in order not to place weapons in the hands of their opponents, the Karaites.

⁸⁷ At the end of his responsum (Yellinek, *Beth Hamidrash*, II, p. 113) Zemah repeats his warning not to deviate from the Talmud and the teachings of the Rabbis in the following words: ובכר הורענו לכם ישמע'ין אחר הכל שותין והתחזקו במה שהחכמים דורשין לכם ובתלמוד שילמדו לכם ואל תטו ימין ושמאל מאחרי כל דבריהם שכן כתוב על פי התורה אשר יורוך ועל המשפט אשר יאמרו לכם תעשו. This repetition of the admonition and the citation of the passage in Deut. 17. 11, so often used by the Rabbis is support of the authority of their traditional teachings, further proves that Zemah aimed to allay any disquieting doubts in the minds of the people in regard to the traditional character of the Rabbinical teachings.

IV

SAADYA'S STATEMENT CONCERNING THE BEGINNINGS
OF THE MISHNAH.

In the course of our discussion, we have proved from a talmudic report as well as from certain utterances of the Geonim, that the first introduction of the Mishnah-form took place in the last days of Jose b. Joezer. There is but one gaonic statement about the beginnings of the Mishnah which seems to be at variance with this conclusion. I refer to the statement of Saadya Gaon in his *Sefer Hagaluḥ* (Schechter, *Saadyana*, p. 5; also quoted by a Karaite writer, see Harkavy, *Studien und Mitteilungen*, V, p. 194).

This statement of Saadya places the time for the beginnings of the Mishnah soon after prophecy ceased, in the fortieth year of the second Temple. This is apparently a much earlier date than the time of Jose b. Joezer. A closer examination, however, will show that the period to which Saadya assigns the beginnings of the Mishnah is actually the same as the one which we have found given in the Talmud and indicated by the Geonim R. Zemaḥ and R. Sherira, viz. the time of Jose b. Joezer. It is merely due to the faulty chronology, followed by Saadya, that his date appears to be earlier than the one which we fixed on the basis of the evidence derived from the Talmud and the statements of R. Zemaḥ and R. Sherira.

We must keep in mind that Saadya followed the rabbinic chronology as given in Seder Olam and in the Talmud. This chronology, however, at least in so far as

it relates to the earlier period of the second Temple, is absolutely incorrect. In order to be able to fix the actual time to which Saadya's date refers, we must first point out the peculiarities of the talmudic-rabbinic chronology which he followed. To account for the errors and the confusion in this chronology, it is sufficient to know its character. It is an artificial chronology, constructed by the later teachers for the apparent purpose of establishing a direct connexion between the true teachers of the Law, that is to say, the Pharisees, and the prophets, and thus to prove the authority of the Pharisaic teachers and the traditional character of their teachings. Such a direct connexion between the prophets and the Pharisaic teachers of the traditional law could be established only by utterly ignoring the time during which the priests were the sole religious teachers and leaders, and consequently contracting long stretches of time into short periods. Hence all the inaccuracies in this artificial and faulty chronology.

The Rabbis assume that the Pharisaic teachers received the Law, as well as all their traditional teachings, directly from the prophets. In their chronology, therefore, the prophets are succeeded not by the priestly teachers, the כהנים, but by the חכמים, the wise lay-teachers. This is expressed by the Rabbis in the statement: ער כאן נתנבאו (Seder Olam Rabba, XXX; comp. also Seder Olam Zutta, VII). By חכמים are evidently meant חכמי ישראל, lay-teachers, or more exactly, Pharisaic teachers, in contradistinction to the priests or Sadducees, the כהנים. This is confirmed by the fact that in passages in the Mishnah and the Tosefta which likewise contain the idea that the wise teachers directly succeeded the prophets, the Zuggot are expressly

mentioned. Thus in Mishnah Peah II, 6 and Tosefta Jadayyim II, 16, we read that the Zuggot, that is to say, the earliest Pharisaic teachers, received traditional laws directly from the prophets, שקיבל מוונות שקבלו מן הנביאים.

The same idea also underlies the statement in Mishnah Abot I, according to which the Zuggot received the law from the last members of the Great Synagogue. For, according to the Rabbis, this Great Synagogue also included the last prophets among its members. There is only one slight difference between the line of succession as given in M. Abot and that given in M. Peah and Tosefta Jadayyim, namely, that the name of Antigonos is mentioned in the former between the Zuggot and the Great Synagogue. However, in stating the authority from whom the first pair received the Law, the Mishnah (Abot I, 4) uses the words קיבלו מהם 'they received from *them*'. This clearly shows that the first pair, the two Joses, did not receive the law from Antigonos alone. For, if this were the case, the Mishnah would have said: קיבלו ממנו 'they received from *him*'. The expression קיבלו מהם warrants the supposition that the two Joses received the Law from the last members of the Great Synagogue, or perhaps Antigonos was considered to have been the younger colleague of Simon. According to this supposition there is no discrepancy between all these talmudic reports. They all assume that the last members of the Great Synagogue, among whom were also the last prophets, transmitted the Law and the traditions directly to the Zuggot or חכמים, i. e. the earliest Pharisaic teachers.

This transmission of the Law by the prophets to the wise teachers, or the disappearance of the prophets and the rise of the חכמים, the Pharisaic teachers, took place

according to the Rabbis, in the time of Alexander the Great, shortly after the overthrow of the Persian Empire (Seder Olam Rabba and Zutta, *l.c.*). This rabbinic chronology finds no difficulty in extending the time of the last prophets to the end of the Persian period. For by some peculiar error, which we are unable to account for, the Rabbis reduced the entire period of the existence of the second Temple under Persian rule to thirty-four years. They assume that thirty-four years after the second Temple was built, the Persian rule in Judea ceased and the Greek rule began (Seder Olam Rabba, *l.c.*, and Shabbat, 15 a). Accordingly, it was not found strange that Haggai who urged the building of the Temple as well as the other prophets of his time, should have lived to the end of the Persian period and have handed over the Law and the traditions to their successors, the חכמים, or wise lay-teachers at that time.

How the Rabbis could identify these חכמים with the Zuggot, so that the latter, living in the second century B.C., could be considered the direct recipients of the Law from the last prophets at the end of the fourth century B.C., is not difficult to explain. The Rabbis had a tradition that the High Priest in the time of Alexander the Great was Simon the Just (I) (Yoma 69 a). They also had a reliable report of a high-priest Simon the Just (II) who lived shortly before the time of the Zuggot, either a little before or contemporary with Antigonus. These two Simons they confused with one another. They identified Simon the Just II, who lived about 200 B.C., with Simon the Just I, one of the last survivors of the Great Synagogue who lived at the end of the fourth or the beginning of the third century B.C. In this manner they established a direct

connexion between the prophets who were among the last members of the Great Synagogue and the Zuggot or the חכמים, the wise lay-teachers, who were the fathers of the Pharisaic party. They were probably unaware of the fact that they passed over an interval of an entire century, or it may be that they consciously ignored it, because, as we have seen, there was no official activity of the teachers during that period.

According to this faulty chronology, then, the Zuggot, or the first pair, Jose b. Joezer and Jose b. Joḥanan, succeeded the prophets, or the last members of the Great Synagogue, and commenced their activity as teachers of the Law shortly after the overthrow of the Persian Empire by Alexander; that is to say, not much later than the year 34 of the second Temple. And it is actually this time, i. e. the time of the two Joses, that Saadya fixes for the beginnings of the Mishnah. The meaning of the passage in Saadya's *Sefer Hagaluj* is now clear, and its date fully agrees with our date for the beginnings of the Mishnah. The passage reads as follows: ויהי כי מלאו למתנה אלף שנים מימי משה איש האלהים לחם יתר הנביאים במלכות מדי ונחתום חזון בשנת הארבעים לבנות הבירה שנית במעט עם בראות הורינו את החמון כי נפץ בכל הארץ ויגורו על ההנא לבלתי השבח ויאספו כל מלה אשר העתיקו מני קדם למעוה ולחוק ליהו (לישראל) ולעדות וימלאום במדע מלואת חכן ויקראו את שמם משנה.

We may, therefore, assume with certainty that Saadya had a correct tradition that the teaching of Mishnah was first begun in the time of the first pair, the two Joses. But, misguided by the erroneous rabbinic chronology which he followed, he puts the date of this first pair in the year 40 of the second Temple.

The conditions which, according to Saadya, caused the

teachers to begin the composition of Mishnah, also point to the time of the two Joses. For, as Saadya assumes, what prompted the teachers to seek to preserve their teachings in Mishnah-form was the fact that the Jewish people were then scattered all over the earth, and the teachers feared that the study of the Law might be forgotten, בראות הורינו את ההמון כי נפץ בכל הארץ וינוורו על ההנא, לבלתי השכח. These conditions actually prevailed in the time of the two Joses. From the Sibylline Oracle III, 271, we learn that about the middle of the second century B. C. the Jewish people had already scattered all over the earth, and were to be found in every land (comp. Schürer, *Geschichte*, III⁴, p. 4). Indeed, the decree of the two Joses declaring the lands of the Gentiles unclean (Shabbat 15a) may have been issued for the very purpose of stopping this extensive emigration of the people into foreign lands (see Weiss, *Dor*, I, p. 99).

Again, from the quotation of Saadya's statement by the Karaitic writer, it would seem that Saadya designated the teachers, who first composed Mishnah, by the name of אבות. If this be so, if Saadya really applied the term אבות to these teachers, he could have had in mind only the earliest Pharisaic teachers, or the Zuggot, who are called in the Talmud (p. Hagigah 77 d) אבות העולם. I am, however, inclined to think that Saadya did not use the term אבות in referring to these teachers. Saadya probably used the term הורינו, as we find it in the Hebrew text (edition Schechter), and which simply means, our forefathers. The Karaitic writer who quotes Saadya's statement translated this Hebrew word הורינו by the Arabic أَلْأَبَاء.

Our contention that Saadya's date refers to the time

of Jose b. Joezer might be objected to on the ground that according to Saadya (Schechter, *l.c.*) it took about 500 years from the beginnings of the Mishnah to the final completion of our Mishnah. If, then, Saadya's date coincides with the time of Jose b. Joezer, the actual time between the beginnings of the Mishnah and the completion of our Mishnah is scarcely 400 years. This objection, however, can easily be removed. Here again the mistake is due to the faulty chronology followed by Saadya. Having placed the beginnings of the Mishnah, i. e. the time of the first pair, in the year 40 of the second Temple, and assuming that our Mishnah was completed 150 years after the destruction of the second Temple, Saadya had to extend the period of the Mishnah to 530 years. For, according to the talmudic chronology, the second Temple existed 420 years. Accordingly the period of time which elapsed between the year 40 of the second Temple and the year 150 after its destruction was 530 years. This number was actually given by Saadya, as quoted by the Karaite writer. The copyist, however, by mistake wrote חק"י=510, instead of חק"ל=530 (see Harkavy, *op. cit.*, p. 195, note 6). The number 500 years, לשנים חמש מאות, assigned to the period of the Mishnah in *Sefer Hagaluj* (edition Schechter, p. 5), probably represents a round number, as Schechter (*l.c.*) correctly remarks.

THE RIGHTFULNESS OF THE JEWS IN THE ROMAN EMPIRE

Les Juifs dans l'Empire Romain. Leur condition juridique, économique et sociale. Par JEAN JUSTER. 2 vols. Paris : Librairie PAUL GEUTHNER, 1914. Vol. I, pp. xviii + 510 ; vol. II, pp. viii + 338.

FRANCE for a period during the nineteenth century rivalled Germany as a centre of 'Jewish science'. It produced, among other savants of distinction, James and Arsène Darmesteter, Munk, and Salvador; and its scholars have always preserved, down to our own time, a special interest in the history of the Jews in the Graeco-Roman period. M. Théodore Reinach, who has already distinguished himself in this field, is now bringing out an elaborately annotated edition of the works of Josephus; and in the work before us we have a remarkable example of thorough and indefatigable scholarship in a similar sphere, which in a considerable measure should replace Schürer's history as the standard authority upon Jewish institutions in the early centuries of the Christian era.

Doctor Jean Juster is a French lawyer who has written in two large volumes a study of the legal, economic, and social conditions of the Jews in the Roman Empire. His work is striking alike as a piece of Jewish scholarship and as a contribution to the knowledge of Roman law and the development of European civilization. It is distinguished by two admirable qualities: (1) a mastery of the whole literature bearing upon the subject ancient and modern, permanent and periodical, Jewish and Gentile; and (2) a very clear and definite point of view, which give unity and a plan to his mass of material. He writes throughout as the lawyer, and contrives from that standpoint

to trace the evolution of the Jewish people from the allied nation to the subject nationality, and from the subject nationality to the persecuted religious community. 'If we keep', he says in his preface, 'to the solid ground of facts—so often ignored in theoretical schemes—the investigation of the legal conditions of the Jews is the most suitable method of presenting their history in detail and bringing out from every point of view what was peculiar in their situation and compelled the people who desired or were forced to tolerate them to impose special measures. . . . Briefly this study leads to an understanding of the conflicts and practical solutions which the life of the Jews outside Palestine aroused in the pagan and Christian world of antiquity. And it is just for the purpose of measuring those conflicts and their solutions that the interpretation of the laws gives definite data—on condition that we investigate the actual life of the laws, their real purport, the cause of their promulgation, their evolution, and their abrogation, and that we analyse them as factors or results of social phenomena.'

It is, then, a legal philosophy of Roman Jewry which Doctor Juster seeks to present in these volumes, extracted from the legal and historical records of five centuries. The three chief topics of investigation are (a) the Jewish privileges; (b) the collective Jewish life in the Diaspora; and (c) the individual condition of the Jews in private and public law and in social and economic life.

The first three sections are taken up by a study of the sources, beginning with the Jewish historical writings, such as the books of the Maccabees, and ending with the Roman Codes and Digest. This is supplemented by a list of the towns in the Roman Empire (extending over thirty pages, of which the foot-notes occupy the greater part), where we have literary or monumental records of the existence of a Jewish community. In spite of the terrible vengeance which the Romans took for the century of Jewish resistance, the Jews remained until the fall of the Empire an important section of the population in almost every province, and everywhere the law took account of their

special requirements. They were a rock of nationality in the sea of cosmopolitanism.

It is a fundamental consideration of the Jewish legal position in the Roman Empire that the Jews had first come into contact with Rome as an allied people, and those of them who were scattered in the Hellenistic kingdoms were for the most part in enjoyment of equal civic rights when their cities passed under Roman dominion. They came thus into the Roman ken as a privileged nation. The Romans, like almost all the pagan peoples of Europe, were extremely tolerant in religious matters, holding that each nation was entitled to worship its own gods in its own ways: and they were moreover essentially a conservative and a legally-minded people, to an even greater extent than the English of to-day. Hence when the Jewish people as a whole came later under their rule, and no longer had the quality of an allied nation, but were a subject people, they made scarcely any attempt to change their legal condition, and preserved and fixed by special ordinances the privileges with which they were already invested. The law thus secured for them, so long as the pagan Empire remained, not merely the condition of a *licita religio*, a legalized religious community, but that of a privileged and nearly autonomous nationality. The 'rightfulness'—if we may coin the word—of the Jewish communities in the Graeco-Roman epoch is diametrically contrasted with their 'rightlessness' in the Middle Ages; and the connecting link between these two extremes is the intricate system of legal disability and legal persecution which marks the Jewish legislation of the early Christian Emperors and culminates in the laws of the Gothic and Visigothic rulers of the Western Empire.

The Jews, as Doctor Juster points out, must in every age and every land either be privileged or persecuted. The difference of their religious and social standpoint from that of their neighbours requires special treatment. The Roman magistrates who had first to deal with Jewish citizens in Asia Minor and Greece, from time to time issued edicts assuring to the peculiar people the free exercise of their religious observances; and in the short

reign of Julius Caesar, these various grants were confirmed and consolidated into a kind of *Magna Charta*, as Niese has called it, which remained for centuries the basis of Jewish rights. The Jewish readiness to become Roman citizens, wherever they enjoyed local civic rights, and their loyalty to the central power which has always characterized them, attracted the Roman favour to them in the Diaspora. Their extraordinary religious sensitiveness—which was to the pagans almost incomprehensible—and the national exclusiveness rendered Palestine indeed a troublesome province to govern, but the more intelligent among the Emperors respected their tenacity and perhaps were anxious not to arouse their martial prowess. Hence in spite of the completeness of the destruction of their religious and political centre at Judea, very small inroads were made after 70 C. E. upon their position of juridical autonomy. On the other hand, when Christianity was installed on the throne of the Caesars, the Jewish liberties were immediately and radically curtailed. It was the policy of the Church to let the Jews exist as a separate community. They were the *testes veritatis*, and so they were not to be exterminated like the pagans. But their lot must be made miserable, and they must be placed in a condition of glaring inferiority to that of true believers, in order that the truth of the predictions against those who refused to accept the Messiah should be illustrated. Their privileges, sanctioned by the pagan codes, were turned to *privilegia odiosa*, and the doctors of the Church vied with one another in embittering their lives.

Doctor Juster marks the contrast between the two attitudes, and its reason. 'The pagan Emperors were free from religious intolerance because the State religion consisted only of rites, of the fulfilment of acts and ceremonies, and left the individual complete liberty of opinion. In view of the legal principle of liberty which had its roots in the tolerance of the deities between themselves, they sacrificed for the benefit of the Jews and their jealous God the requirements of the official religion by dispensing them from the accomplishment of the rites.' The Christian Emperors on the other hand, dissociating religion and

nationality, made it a cardinal principle to pay no respect to the national customs of the peoples of the Empire when they were religious customs. Outside Christianity, every other religion or even religious doctrine is more or less criminal, and its adherents are to be visited with penalties. Such a minimum of tolerance as was conceded for theological reasons to the Jews was exclusively for those born in the faith. Proselytism, so long as it did not involve circumcision, had been permitted under the pagan empire and freely practised, but it was repressed henceforth with all the rigour which a jealous and cruel ecclesiastical hierarchy could devise. Jewish exclusiveness, so often made a reproach by latter-day theologians, was the forced outcome of a deliberate Christian policy. Doctor Juster writes a very learned and complete excursus on the place of Jews and Judaism in the Christian Ritual, in which he traces the debt of the Church to the Synagogue and of the Christian calendar to the Jewish calendar, and notes the bitter irony by which the Church borrowed from the Jews the violent polemic in the liturgy against all who should accept Judaism. After the battle was won against Jewish influence, the polemic was kept in the ritual to maintain the hatred against the Jews, who, 'reduced and enfeebled, shut up in their ghettos, kept at a distance from the Christians, powerless and defenceless, had ceased to be a danger to the Church', but were none the less an object of abomination. It is instructive to notice how long this attitude lasted. As late as 1542 an Ecclesiastical Synod in Poland passed a resolution stating: 'Whereas the Church tolerates the Jews for the sole purpose of reminding us of the torments of our Saviour, they must not increase under any circumstances.'

Passing to the measures which the pagan Romans took for the protection of the Jewish cult, Doctor Juster examines in detail the legal dispensations from the rites of the state religion which were accorded to the Jews because of their peculiar scruples. We are apt in our popular Jewish histories to associate the Hellenistic epoch essentially with the attempt of Antiochus Epiphanes to compel the Jewish people to worship the pagan

deities, and the Roman epoch with similar attempts of Caligula and Nero to force their personal worship upon the Jews. But, in fact, these outbreaks of tyranny were shortlived incidents in a general era of tolerance, which extended over the whole of the Diaspora as well as Judea. Doubtless it was their martial valour more than any spontaneous respect of their rulers which won for the Jews the special treatment. They were permitted to address the Emperor by titles which avoided what they deemed blasphemy; they took the oath of allegiance in a particular inoffensive form, they offered sacrifices in the temple of God, not of Caesar, and not to the head of the State, but for his well-being. Out of regard for their religious ideas, moreover, the Jews were exempted from military service, because they would not march on the sabbath day; and they were exempted from taxation in the year of release until the Imperial Treasury was too straitened to afford the immunity. Doctor Juster refutes the suggestion of Mommsen that the Jews were debarred by any law from using the Hebrew language. If Hebrew died out at all in parts of the Diaspora, it was the force of assimilation, not the repression of the legislature, which killed it.

Again, the legislation of the Christian Emperors offers a complete contrast with pagan tolerance. The celebrated 'Novel' of Justinian, No. 146, 'About the Hebrews', orders that, whenever the Jews of the locality wish it, the Scriptures may be read to the persons assembled in the synagogues in Greek or in the national language (i. e. Italian), or any other tongue according to the locality, so that all present may understand, on pain of corporal punishment and forfeiture of goods against the dignitaries of the Jewish clergy who shall excommunicate or penalize in any way those who read the books in any but the Hebrew language. That was a propagation of radical reform by Imperial rescript more thorough than any Rabbi of the far West has to-day dared to dream of. Justinian goes on to prohibit the use of the Mishnah (which no doubt included the Gemara) in the service, thus anticipating by a thousand years the anti-Semitic machinations of a Pfefferkorn; while by way of recompense he menaces with exile those

Jews who dare deny that there is a resurrection and last judgment, and that the angels are divine creatures. Heresy, which was a capital offence for Christians, becomes a capital offence for Jews if it takes the form of denying those parts of the Jewish creed which are also parts of the Christian belief. It is an interesting by-the-way reflection that the Imperial rescript goes far to prove the survival to the sixth century of forms of Judaism which derive directly from the old Sadducee sect, and are the prototypes of the Karaite cleavage.

Another aspect of Roman tolerance in the pagan epoch was the legitimization of the patriarchate after the fall of the Temple, and the permission given to the patriarch for imposing on all Jewish communities a tax for the maintenance of his office. The annihilation of the Jewish State by Titus and Hadrian was complete, but the Roman Conquerors, with their positive outlook and their freedom from theological rancour, having destroyed the political power of the foe, had no feud against their spiritual independence. Since the Jews in any case would take to themselves a leader, it was deemed better to give them one recognized by the sovereign who would be under a debt to the authorities, and who instead of fomenting sedition would moderate any outbreak. The patriarch, then, was permitted to exercise very large functions of national leadership, and to wield the same general control over the whole Jewish community of the Roman Empire as the Chief Rabbis of Western Europe sometimes have held over the national congregations. 'Centralize and rule'—through a central delegate—was the liberal policy of the pagan empire. Justinian is silent about the privileges of the Jewish spiritual functionaries, but our author has not found any text on which to support a suggestion that he suppressed them. We may safely presume, therefore, that no known text exists. But under Christian rule the patriarchate of Palestine soon lost its pride of place.

By the side of the generous recognition of a central religious authority over the Diaspora, the Romans granted each Jewish community full liberty of association and meeting. While the

general policy of the Empire was very jealously to restrict *Collegia* which seemed to conflict with the requirements of the civic authorities, the synagogue was remarkably favoured and privileged. It was recognized and legalized rather as a national than a religious body, *universitas* endowed with legal personality and with capacity to receive gifts and legacies. As Doctor Juster says, again refuting Mommsen, 'the complexity of its functions makes the community resemble rather a city than a religious association'; it has civil and penal jurisdiction: it forms part of the whole Jewish nation: it is subordinate to the central Jewish authority. The Jews were veritably an *imperium in imperio*, a semi-autonomous people, even while they possessed the equal citizen rights with the rest of the population. They enjoyed separation without ghettos, and differentiation without degradation. Doctor Juster sees in the sect of the 'New Alliance', of which Schechter has discovered a record in the Genizah fragments, an example of the liberty of association which was conceded to the members of the Jewish nationality.

Here, too, on the establishment of the Christian Church as the State religion, legislative repression came to the support of theological intolerance. Jews were forbidden, under severe penalties, to build new synagogues, and when the older houses of meeting were burnt to the ground by fanatical mobs, redress was refused. Just as the Church desired the Jews to survive as a separate people, but to survive miserably, so it permitted Judaism to remain a separate faith on condition that its existence should be precarious and its progress ruthlessly impeded.

In his second volume the author treats of the private rights of the individual Jew, which depended primarily on his *status civitatis*. He might be *peregrinus*, i. e. a foreigner; and this was the condition of all those who had not a local citizenship or the full Roman *civitas*. The latter privilege was exceptional till the edict of Caracalla bestowed it on the subjects of the Empire. As *peregrini*, however, while endowed with limited political rights,

the Jews had their own system of law for all personal matters ; or, as it is called to-day in the East, they had their own ' personal statute ', which depended on their national institutions. By this law the questions of marriage, divorce, and guardianship were ruled, and the courts which decided on them were Jewish courts. The Jews enjoyed a legal system similar to that which the European Powers have obtained in non-Christian countries by the so-called Capitulations made with the sovereign. They preserved this advantageous position till the breaking-up of the Roman Empire into a number of separate and exclusive nations made the personal application of law, which in the vast Roman Empire had been freely accorded, an anomalous exception that could not be tolerated for long. It was as inheritors of the ideas of the Roman Empire that the Jews incurred their rightlessness in the mediaeval State, and—another ironical paradox—they were compelled by the Christian Emperors to adopt the Roman private law to govern their family relations at the very moment when, deprived of their political rights, they became less fully Roman subjects.

It is interesting to consider briefly the rules of private law which applied to them in the heyday of the pagan Empire, and Doctor Juster, though the documents are here not as full as in other parts of his study, has by deduction from well-defined principles, made the position clear. Under the pagan Empire the Jew could follow his national religious law in matters of marriage and divorce at his option, even though he was entitled to the benefit of the ordinary Roman law : after 393 C.E., when his national customs in such affairs were declared illegal, he was bound to comply with the civil rules. In the tolerant period the Roman tribunals (as the Talmud records) would compel a Jewish husband to give the bill of divorce which a Jewish authority has directed (Gittin, 9. 8). On the other hand the Christian Emperors introduced against loyal Jews a series of special restrictions on the testamentary capacity, so as to give a baptized member of the race a special right of inheritance. The civil jurisdiction of the Jewish tribunals in Palestine was only slightly

impaired by the fall of the nation in 70 C.E. Before that date their competence was exclusive when both parties were Jews : afterwards it was concurrent with that of the pagan courts ; but it was none the less a recognized, legal *forum* whose sentence was executed by the State officers. The Theodosian Code took away this privilege, and reduced the Jewish courts to the rank of arbitration tribunals, which had competence only by consent of the parties. Nevertheless the award of the tribunal retained the character of a binding decision, which was executed by the Roman authorities. The position of the Beth-Din in England to-day offers a close parallel. In the Diaspora the Jewish courts exercised under the early Empire an optional but regular jurisdiction over the Jewish communities, and their transformation under the influence of Christian legislation into arbitration tribunals followed the same lines as the process in Palestine. The penal jurisdiction which in the times of national independence had been fully exercised by the Sanhedrin in Judea, was likewise not completely swept away so long as the Empire lasted. Doctor Juster, controverting a great body of Jewish and non-Jewish authority, maintains that the Jewish court had both the power to pronounce the capital sentence and to have that sentence executed. He relies principally on the evidence of Josephus and Philo, and thinks the testimony of the Christian Gospels altogether vague and inconclusive. But after the fall of Jerusalem the only power to pass a capital sentence left to the Jewish penal court was in regard to religious offences, and this was by way of tolerance rather than of right. In the Diaspora the penal jurisdiction of the Jewish community was always restricted to cases of religious offences, and was not therefore affected by the change in the political *status* of Palestine. Nor was it altogether abolished by the Christian legislation, though it was considerably curtailed. Its survival is a remarkable testimony to the peculiar character of the national privileges of the Jews throughout the history of the Roman Empire : because no other community, not organized in separate cities, enjoyed in any measure the exercise of a right which is essentially attached to sovereignty. Doctor Juster

elaborately analyses the criminality of the Jews in the Roman Empire as evidenced by all the available literary and monumental records. He regrets that he cannot actually provide his readers with criminal statistics relating to the Jews of the period; and doubtless he would have liked to draw comparative results between Jewish and Gentile criminality and ancient and modern Jewish crime. But this would be a work of imagination, for which his volumes have no fit place. In his collection, however, of every recorded crime committed either by an individual Jew or a Jewish community, he has prepared the field of comparative study for some less cautious follower.

He is as thorough in his researches into the Jewish names found in the Empire; he classifies them into pure Roman, Greek, Hebrew, and mixed names, and he notes that as they were forced into a position of legal inferiority by the legislation of the Christian Emperors, so the Jews tended to adopt more and more the biblical names which they had hitherto neglected, and abandoned their pagan names. This provides a novel illustration of the principle that persecution strengthens the Jewish consciousness.

The final section of the book deals with the economic condition of Jewry in the Roman Empire: and in this part of the work only we feel that Doctor Juster is not exhaustive and has not said the last word. Yet he has brought together here too, a large amount of most suggestive material, and never fails to point out the contrast between pagan liberality and Christian jealousy. Under the Emperors of the first three centuries Jews filled high places at the court, and were not excluded from any calling or dignity; under the Christian rule they were shut out from the army, from the rank of *Palatini*, from the position of public professors and from the profession of advocacy,—it is interesting to note that so early they were distinguished by their skill in medicine and law,—and from municipal office and public functions generally, save such as were purely onerous and provided revenue. By a refinement of unfavourable discrimination, Justinian permitted them to keep these offices, or

rather compelled them to be appointed and stripped them of the privileges attached to the rank.

Our author also demonstrates clearly that agriculture was the dominant calling of the Jews as well in the Diaspora as in Palestine, till a harsh legislation drove them from the soil to commerce. They spread to the furthest limits of the Empire and beyond in their quest of liberty, and formed a kind of Jewish fringe colouring the life of every province. It was from these frontier Jewries that the communities of the Middle Ages in Western Europe derived their origin. Doctor Juster does well to show by abundant documentary evidence that (1) the Jews had no remarkable trend towards commerce till after the fifth century, when they were being consistently excluded from all liberal callings, and (2) that when Christian persecution began, the age-long harrying and hounding that has not ceased in our days, they were not noted for the number of their rich men but rather for their poverty. Jewish degradation as well as Jewish disabilities date from the union of the Church with the Roman State. We may hope that they may end with the dissolution of that union in the Empire which is the heir of the tradition and a large part of the dominions of Justinian. It is the principal lesson of Dr. Juster's work that the Jews have suffered from a false political idea that for fifteen hundred years has dominated European thought.

NORMAN BENTWICH.

Cairo.

EDITORIAL ANNOUNCEMENT

It is my sad duty to announce to the contributors and readers of the JEWISH QUARTERLY REVIEW the death on November 19, 1915, of SOLOMON SCHECHTER, President of the Jewish Theological Seminary of America, Master of Arts and Doctor of Letters of the University of Cambridge, Doctor of Letters of Harvard University, some time Reader in Rabbinics in the University of Cambridge, and Professor of Hebrew at University College, London, and an Editor of this REVIEW since 1910.

זכר צדיק לברכה

CYRUS ADLER.

PYGMY-LEGENDS IN JEWISH LITERATURE

BY SOLOMON T. H. HURWITZ, New York.

IN view of the more recent developments in the anthropological world, the question of the wide distribution of races of pygmies or dwarfs (the terms are synonymous) in the early periods of human history has constantly been in the foreground. Since the able monograph of Quatrefages¹ much further light has been thrown on the subject through the labours of such scholars as Von Luschan,² MacRitchie,³ Paul Schmidt,⁴ and others.⁵ Not only is the evidence of travellers who have observed and conversed with the members of still living races of paramount importance,⁶

¹ Cf. *Les Pygmées* (Paris : J. B. Baillière et Fils, 1890) and *The Pygmies* . . . translated by F. Starr (London : Macmillan, 1895).

² Cf. *Zeitschr. für Ethnologie* (Berlin, 1913), XLVI, 939-45; and *id.*, XXXVIII, 716-30, *et passim*.

³ Cf. 'Zwerge in Geschichte und Ueberlieferung' in *Globus*, LXXXII, 101-3; *Journal Roy. Soc. Antiq. Ireland*, III, 367, *et passim*.

⁴ Cf. *Die Stellung der Pygmäenvölker in der Entwicklungsgeschichte des Menschen* (Stuttgart : Strecker & Schröder, 1910).

⁵ For further literature on the subject, cf. Picard, 'Les Pygmées' (*Science sociale*, XXVII, 203-26, 333-52, and XXVIII, 141-62); Emil Schmidt in *Globus*, LXXXVII, 309-12, 325-29; Guiffrida Ruggeri in *Archivio per l'antrop. e la etiol.* (Firenze, 1910), XL, 289-315, and in *Soc. italiana per il progresso delle scienze* (Roma, 1911), Atti IV, 495-519.

⁶ Cf. Burrows, *The Land of the Pygmies*. With introduction by H. W. Stanley (New York : T. Y. Crowell & Co., 1898); Neuhaus, 'Die Pygmäen in Deutsch-Neuguinea' (*Anthrop. Gesellsch. in Wien*, XLVII, 67-9), and 'Ueber Pygmäen in Niederländisch-Süd-Neu-Guinea' (*Zeitschr. für Ethnologie*, XLV, 23-44); Seiler, 'Von den Zwergstämmen in Südkamerun' (*Deutsche Gesellsch. für Anthropol., Ethnol. und Urgeschichte. Correspondenz*.

but the skeletal remains of earlier periods of civilization have afforded much ground to the student of comparative anatomy for the belief in the existence of such races in various parts of Europe during neolithic times.⁷ But a still greater amount of evidence lies embedded in the literary deposits of former generations which, whether in the form of myth or legend, folk-lore or fairy-tale, can be proven to be, if correctly interpreted, of great value for the better understanding of the subject.

The Greek and Roman writers of antiquity (notably Homer, Herodotus, Aristotle, Ctesias, Pliny, and Pomponius Mela) have preserved many legends about various races of African and Asiatic pygmies, which, when properly analysed,⁸ agree with the main facts brought to light by contemporary travellers who have, from time to time, explored their unfrequented abodes. Very little has been written on the occasional mention of dwarfs in the literary records of the two most ancient peoples of antiquity, the Egyptians and Jews,⁹ a consideration of whose accounts

blatt, XXXV, 3-6); and Schlaginhau'en, 'Pygmäen in Melanesien' (*Archives suisses d'anthropologie générale*, Genève, 1914, Tome I, 37-42).

⁷ Cf. Dor, 'Les Pygmées néolithiques en Suisse' (*Bull. soc. d'anthrop. de Lyon*, XXII, 170-77); Mesch, 'Neuer Fund von Pygmäen aus der neolithischen Zeit' (*Anzeiger für schweizer. Alterthumskunde*, n. s., II, 1-3); Thilenius, 'Prähistorische Pygmäen in Schlesien' (*Globus*, LXXXI, 273-4); and Kollmann, 'Pygmäen in Europa und Amerika' (*Ibid.*, 325-7).

⁸ For a discussion of their value, cf. Quatrefages, *op. cit.*, chapter I; Paul Monceaux (*Revue historique*, 1891, XLVII, 1-64); and Tyson, *A philological essay concerning the pygmies of the ancients...* edited, with an introduction treating of pygmy-races and fairy-tales, by B. C. A. Windle (London: D. Nutt, 1894).

⁹ A paper was presented on the subject before the last congress of anthropologists convened at Geneva, September 1912, by David MacRitchie in collaboration with the present writer, a summary of which appeared in the transactions (cf. D. MacRitchie et Salomon T. H. Hurwitz, 'Les Pygmées

cannot but be of supreme interest to the student of the problem.

But apart from its general interest the subject has a specific Jewish interest, in that it raises the problem of the value of the Jewish legend for the student of ethnology, folk-lore, and other kindred branches of anthropological science. In the following the subject will be treated under its three different aspects: (a) the legend about the Gammādīm and pygmy race of Kaftōrīm; (b) legends about individuals of dwarfed stature; (c) Greek legends in Rabbinic literature.

(a) THE GAMMĀDĪM AND KAFTŌRĪM.

The supposition that the Biblical writers knew of the existence of a race of pygmies rests entirely upon the traditional interpretation of the word נַפְרִים in Ezek. 27. 11. The passage occurs in the second Tyrian prophecy; and some modern commentators, notably Jahn,¹⁰ regard it as a somewhat later gloss. The passage reads: בְּנֵי אַרְוַד וְהִילָף עַל-הוֹמוֹתָיָהּ סָבִיב וְנַפְרִים בְּמִנְדְּלוֹתָיָהּ הָיוּ שְׁלֹטֵיהֶם תָּלְיוּ עַל-הוֹמוֹתָיָהּ סָבִיב הִפְּחָה בְּלִלְיוֹ יָפִיָּהּ. The R.V. renders: 'The men of Arvad with thine army were upon thy walls round about, and the Gammādīm were in thy towers; they hanged their shields upon thy walls round about; they have perfected thy beauty.' A marginal note in the R.V. to *Gammādīm* renders 'valorous men'. This rests entirely on the assumption that the word is to be derived from a secondary *chez les anciens Égyptiens et les Hébreux*, *Congrès international d'anthropologie et d'archéologie préhistoriques*; *Compte rendu de la xiv^{me} Session*, Genève, 1912, II, 418-22). There is a brief discussion of the Biblical *Gammādīm* in the work of Tyson, *op. cit.*, pp. 68-70, and in the *JE.*, V, 22-3.

¹⁰ Cf. *Das Buch Ezechiel*, *ad loc.* (Leipzig: E. Pfeifer, 1905).

sense of the Semitic נמר 'to be bold', found in the Syriac ܢܡܪܐ 'boldness, temerity', and occasionally in the Arabic ܢܡܪܐ 'to be rigid, inexorable'—a supposition which is highly improbable. The word has caused much difference of opinion. The LXX renders φύλακες 'watchmen', while the Peshitto has ܢܡܪܐ 'watching'. In both cases the translators read שמרים, which may be translated either as noun or as participle. Symmachus read ܢܡܪܐ, ἀλλὰ καὶ Μηδοί; Theodotion, καὶ Γομαδείμ; while the Vulgate adopts the Rabbinic tradition¹¹ and translates 'Pygmaei'—a translation borne out by Aquila, who renders πυγμαῖοι.¹² Modern commentators prefer to regard this perplexing word as a proper name (inasmuch as it is found in conjunction with other proper names, as e.g. Persia . . . Lud . . . Phut . . . Arvad), and read either with Lagarde נמרִים¹³ (cf. נִמְרָה, Gen. 10. 2-3), or with Cornill צמרים¹⁴ (cf. *ibid.*, 10. 18), or attempt to identify the masoretic נִמְרִים with the Egyptian ẖamdu (or Gamdu), the ẖumidi of the Tell Amarna inscriptions, and the modern Kāmid-el-Lōz.¹⁵

The Rabbinic tradition, however, has consistently looked upon the Gammādīm as a race of dwarfs. Not only does the rendition of Aquila confirm this position, but the united evidence of Targum and Midrash, as well as the remarks of the most esteemed older commentators of the O.T. bear out this view to its fullest. Rashi, after expressing

¹¹ It is well known that Jerome sat at the feet of Jewish doctors of the Law.

¹² Cf. Origen's *Hexapla* (ed. Field), *ad loc.* Origen gives another version of Aquila which renders τετελεσμένοι, but the first is, no doubt, the authentic version.

¹³ Cf. *Onomastica Sacra* (2nd edition), 367.

¹⁴ Cf. Kraetzschmar, *Das Buch Ezechiel*, *ad loc.*

¹⁵ Cf. Ernest Meyer, *Aegyptiaca*, 72, and Max Müller, *Asien und Europa*, 193, 396 (Leipzig: W. Engelmann, 1893).

the opinion of Rabbi Menahem (bar Ḥelbō), who renders the word 'divers', adds—אמה ונכנסין במדת אמה—'Others explain that they are pygmies who are a cubit high in measure.' The last words give the philological ground for this exegesis; for, it will be remembered, that גַּמָּד is a 'cubit' (cf. Judg. 3. 16).¹⁶ The word גַּמָּד is accordingly analogous, from the Rabbinic standpoint, to the Greek *πυγμαῖος*, 'a foot tall'. Kimḥi speaks similarly: גַּמָּדִים הָיוּ אֲנָשִׁים נְנִסִּים, 'The Gammādīm were a pygmy people of small stature. The word is to be derived from the expression "of a cubic length" in Judges (*ibid.*).' But it was the French exegete, Eliezer of Beaugency, a pupil of Rabbi Samuel ben Meïr, who first correctly identified this tradition with the legend concerning the pygmy race of Kaftōrīm recorded in the Midrash Rabba. He says: וְגַמָּדִים עִם נְנוּס הוּא כַּמְפּוּרֵשׁ בְּבִרְאשִׁית רַבָּה (פֶּרֶשׁה ל"ו ס"ה ה') כַּפְתּוֹרִים נְנִסִּים, וּבִאֲרִץ יוֹן יֵשׁ מִהֶם הַרְבֵּה¹⁷ וּבְעֵלֵי חֲצִים הֵן וְהוּא שְׂאוֹמֵר שְׁלֹטֵיהֶם¹⁸ 'The Gammādīm are a pygmy people, as it is explained in Genesis rabba (37. 5)—"The Kaftōrīm were dwarfs". There are many such in Greece, and they are good archers, wherefore it is said, "they hanged their *šlātīm* upon thy walls" (Ezek. 27. 11); the *šlātīm* are quivers.'

Poznański points out¹⁸ that the identification with the

¹⁶ The primary sense of the Semitic גַּמָּד is 'to curtail, contract, congeal' (cf. Arabic جَمَدَ); the etymology of 'dwarf', from the root itself, is, therefore, quite possible without resorting to its derivation from גַּמָּד.

¹⁷ Pliny, in one account (*Natural History*, I, 18), places the pygmies in Thrace and Ctesias (*Ecloga in Photii Bibl.* LXXII, p. 145) claims that they were good archers (σφόδρα γὰρ εἰσι τοξῆται). It would seem, therefore, that the Rabbi was acquainted with the Greek legends of pygmies which, as will be seen, are not unknown in mediaeval Rabbinic literature.

¹⁸ Cf. S. Poznański, פירוש על יהוקאל וחרי עשר לרבי אליעזר מבלגנצי (חברת מקיצי נרדמים: ורשא 1909-10).

passage in בראשית רבה is absolutely correct. Targum Jonathan translates the word נַמְרִים = קַפּוֹטָאִי 'Cappadocians'; and, as Poznański has shown on another occasion (*ZAW.*, XXIV, 305), the Kaftōrīm are always termed Cappadocians in the geographical identifications of the Targumim.¹⁹ The inference that the Gammādīm were regarded by the Rabbis as identical with the Kaftōrīm is, therefore, entirely legitimate.

The legend, as recorded in Genesis rabba 37. 5, bears the stamp of age and has been generally misunderstood by the commentators because of the occurrence of several ἀπαξ λεγόμενα. It is a comment on Gen. 10. 14, which contains the genealogical tree of the nations descended from the stock of the Egyptians. ואת פתרוסים ואת כסלוחים אשר יצאו משם פלשתים ואת כפתורים, 'And Pathrusim, and Casluhim, out of whom came the Philistines, and Caphtorim.' On this the Midrash comments as follows: פתרוסים פרוויטות כסלוחים פקוסים, אמר רבי אבא בר כהנא פתרוסים וכסלוחים היו מעמידין אוטליסין היו אלו מונבין נשותיהן של אלו, מה יצא מהן, פלשתים גבורים כפתורים ננסים.²⁰ Although most authorities²¹ regard the words

¹⁹ Rabbi Menahem bar Helbo similarly identifies the נַמְרִים with the פַּתְרוּרִים, although he interprets the first word as 'divers' (cf. Poznański, פתרוני ר' מנחם בר חלבו לכתבי הקדש, בספר היובל לכבוד נחום סאקאלאו, 421 דף תרס"ד, ורש"א תרס"ד). For כפתור as Cappadocia, cf. Onkelos to Deut. 2. 23, and Jonathan to Jer. 47. 4, Amos 9. 7. The Peshitto agrees with the Targumim in these passages, and renders מַפְסֹכָה; while the LXX similarly render Καππαδοκία, Καππάδοκες.

²⁰ Parallel passages are found in the Yalkūt to Gen. 10. 14, and to 1 Chron. 1. 12. Both quotations omit the first line of the passage. The Genesis reference is interesting because of its translation of the word פתרוסים, which probably belonged at the beginning of the passage, and which accords with the view expressed in the present article. The passage reads: פתרוסים וכסלוחים היו מעמידין הטליסין והיו אלו מונבין נשותיהן: של אלו ואלו מונבין נשותיהן של אלו מה יצאו מהן, פלשתים גבורים, פתרוסים ננסים, כפתורים ננסים (ילקוט לבראשית " י"ד).

²¹ So Levy *Neuhebräisches und chaldaisches Wörterbuch*, ad loc.), Kohut

פרויטות and פקוסים as proper names of unknown Egyptian tribes, still the commentary ascribed to Rashi and of late Theodor²² correctly surmise from the context that these are descriptive terms employed to explain the character of the intermingling races from whom Philistines and Kaftōrīm sprung. The word פרויטות (for which the Paris MS. reads פרויטות²³) is, as Neubauer has already shown,²³ the Greek *πειρᾶτής* 'pirate'; while the word פקוסים, although hitherto unexplained, seems to be phonologically identical with the Greek *πῆχυς*, another name for pygmies.²⁴ The passage accordingly means: The Pathrūsīm are pirates; the Kaslūhīm are pygmies. Says Rabbi Abba bar Kahana, 'The Pathrūsīm and Kaslūhīm were wont to hold bazaars (Greek *κατάλυσις*), on which occasion one tribe would steal the women of the other tribe. With what result? Philistines—giants;²⁵ Kaftōrīm—dwarfs'.

An intelligent examination of this passage, drawn from the ancient store-house of Jewish folk-lore, makes clear an attempt on the part of the learned Rabbi Abba bar Kahana to reconcile two conflicting traditions transmitted from a remote antiquity concerning the Philistine aborigines; on ערוך השלם, *ad loc.*), and Wünsche (*Bibliotheca Rabbinica; Eine Sammlung alter Midraschim*, Leipzig, 1880-85, *ad loc.*).

²² Cf. Theodor, *מדרש בראשית רבא* (Berlin, 1908-14), *ad loc.*

²³ Cf. *La Géographie du Talmud* (Paris, 1868), p. 424. The form פרויטות (nearest to *πειρᾶτής*) may be a case of vocalic metathesis due to the accent on the ultima (cf. Krauss, *Griechische und lateinische Lehnwörter im Talmud, Midrasch, und Targum*, Berlin, 1898, I, p. 115).

²⁴ Lucian, *Rhet. Praec.* 6, speaks of *πῆχες* on paintings of the Nile, described as pygmies. Philostratus also uses this word for pygmies. The Greek *χ* is often transliterated by *q* in Rabbinic literature (cf. קרטים for *χάρτης*, קולין for *χέλιον*, קירקני for *χορικών* in Nedarim 51 a).

²⁵ Cf. *בראשית* and *המה הגבורים אשר מעולם אנשי הישם* (Gen. 6. 4) *רבה כ"ו ז'*, where the expression *גבורים* is reckoned among the seven Biblical names for giant-races.

the one hand, a tradition that the Philistines belonged in great part to a giant race—a tradition still surviving in the Biblical stories of the giant Goliath, and the children of the גִּיָּם of Gath (2 Sam. 21. 16–22); and on the other hand, a tradition concerning a race of pygmies known as Kaftōrīm, also said to be the progenitors of the Philistines (cf. Deut. 2. 23; Jer. 47. 4; and Amos 9. 7). The reconciliation assumes that the later Kaftōrīm and Philistines were the products of two earlier, intermingling races of diverse character (one of pygmies, the other of pirates) out of whom sprung the giants and dwarfs known to tradition. But inasmuch as the Genesis account derives all these tribes from a common Egyptian ancestry, the conclusion is not at all surprising; for the Rabbis may have been acquainted (as the Greek words seem to indicate) with various widely-circulated stories about African pirates and Egyptian pygmies.²⁶

This is perhaps among the earliest instances of an attempt to explain several conflicting legends, belonging in greater part to the domain of folk-lore, in a manner somewhat closely resembling modern scientific methods. The question that now arises is, how are these curious traditions of antiquity to be interpreted in the light of our present knowledge? The problem of the tall, non-Semitic autochthons of Palestine has, to a large extent, been solved by the late archaeological excavations which have brought to light traces of tall, non-Semitic races in various parts of Palestine in prehistoric periods of human culture.²⁷ There

²⁶ In the Greek legends the pygmies are most often associated with Ethiopia and the sources of the Nile (cf. note 24; Aristotle, *Hist. Animal.* VIII, 12; Philostratus, *De Vita Apollon. Tyanaci*, VI, 1; and Herodotus, *Histor.* IV, 183.).

²⁷ Cf. Macalister, *History of Civilization in Palestine* (Cambridge, 1912), pp. 20 ff., and Kittel, *Geschichte des Volkes Israel* (Gotha, 1912, I, 32–46).

is, therefore, little difficulty in accounting for the semi-fabulous Refā'im, 'Anākīm, Zamzumīm, and 'Ēmīm, cited by the Deuteronomist (2. 10-23), and it is not surprising that similar accounts have been transmitted of the Philistines, who may possibly have absorbed the small remnants of these early aborigines during their invasion. But more difficult is the question involved in the other tradition, which distinctly claims that the Kaftōrīm were a race of dwarfs.

This leads at once to the ethnographic problem of the identity of the Kaftōrīm. The Rabbinic conjecture with regard to Cappadocia, based on the similarity of sound in the two names, has nothing further in its favour. Michaelis²⁸ very early expressed the opinion that Cyprus was the original 'isle of Kaftōr' spoken of by the prophet (Jer. 47. 4); while Ebers²⁹ tried to prove that the coast of the Nile-Delta was the site referred to. Hitzig³⁰ identified the Philistines with the Pelasgians, who came from Crete to northern Egypt, whence they emigrated to Palestine (this seems to be borne out by the genealogy in Gen. 10. 14). Most modern authorities,³¹ however, are unanimously in favour of Crete as the original seat of the Kaftōrīm. The fact that the name כְּרִתִּים is applied to the Philistines on several occasions (cf. Ezek. 25. 16; Zeph. 2. 5; and 1 Sam. 30. 14), and the identification of כְּפַתוֹר with the Keftiu of the Egyptian monuments³² makes this position

²⁸ Cf. Gesenius-Brown-Driver, *Hebrew Lexicon*, to כְּפַתוֹר.

²⁹ Cf. *Aegypten und die Bücher Moses* (Leipzig, 1868), pp. 127 ff.

³⁰ Cf. *Urgeschichte und Mythologie der Philistiner* (Leipzig, 1845), pp. 33 ff.

³¹ Cf. A. J. Evans, *Cretan Pictographs* (1895), p. 100. Similarly, H. Ewald, *Geschichte des Volkes Israel* (2^{te} Auflage, Göttingen, 1851), I, 330 ff.; Dillmann, *Die Genesis* (Leipzig, 1882, 4^{te} Auflage), p. 179; and Giesebrecht, *Das Buch Jeremia* (Göttingen, 1894), p. 234.

³² Cf. Macalister, *The Philistines* (London, 1913), ch. I.

almost certain. Macalister³³ concludes that 'the Philistines were a people composed of several septs, derived from Crete and the south-west corner of Asia Minor. Their civilization, probably, was derived from Crete, and though there was a large Carian element in their composition,³⁴ they may fairly be said to have been the people who imported with them to Palestine the memories and traditions of the great days of Minos'.

From what is known of Crete, its high degree of culture, and its influence on the ancient world, there can be no question as to any possible relationship between the Cretan Kaftōrīm and the pygmy race of the Rabbinic tradition. As far as the latter is concerned, one possible solution of the problem has suggested itself to the present writer. In the late excavations of the site of ancient Gezer, Macalister³⁵ informs us of the discovery of the remains of a curious non-Semitic race of troglodytes who lived in neolithic times (c. 2500 B. C.), and who were considerably below the average stature. While it is true that these were not a dwarfed race in the true sense of the word,³⁶ yet the fact

³³ Cf. *op. cit.*, p. 28.

³⁴ The royal body-guard, besides being composed of the כְּרִתִּי וּפְלִשְׁתִּי (2 Sam. 8. 18), Cretans and Philistines (so Macalister, *loc. cit.*), is also said, on several occasions, to have contained הַכַּרְיִי, Carians (cf. 2 Sam. 20. 23; 2 Kings 11. 4, 19). The Carians, together with the Philistines (identified by Macalister with the Pulsati of the monuments), were small bands of sea-pirates who overran Palestine. This fact rather curiously confirms the opinion of the Rabbis.

³⁵ Cf. *Excavation of Gezer* (London, 1912), I. 72.

³⁶ Roughly speaking, the average height of males of dwarfed races is 4 ft. 9 in. (the height of a twelve year old boy), although individuals of full-grown estate have been known to be considerably below 4 ft. in stature. The average height of the troglodytes of Gezer was about 5 ft. 1 in. When we recall that tall races reach an average of 5 ft. 9 in., the difference in height becomes at once remarkably striking.

that only few of the caves were much beyond six feet in height³⁷ would seem to indicate that the race in question was considerably shorter than the other aboriginal races known to have lived in the surrounding parts, who, to say the least, belonged to the tall races of mankind.

It is true Macalister is strongly disinclined to accept the present theory,³⁸ partly because of the large gap in time between the neolithic troglodytes and the Cretan Kaftōrīm, who are a comparatively late importation—c. 1400–1200 B. C.—and partly because of scepticism as to the value of the Rabbinic tradition about pygmies. Nevertheless, when we remember the persistence of old traditions in the folk-lore of the human race, and when we recall that the later Kaftōrīm settled over the very graves of the former troglodytes (having, according to Deut. 2. 23, displaced the 'Avvīm, who are said to have dwelt in villages as far as Gaza, and who are known, from Joshua 13. 3, to have still survived during the invasion of the Israelites), it is not altogether unlikely that stories of the large discrepancies in the height of several autochthonous races—a fact very striking to the primitive mind—should cling to the localities wherein these indigenous races originally dwelt, long after their extinction. MacRitchie has similarly interpreted³⁹ the curious legends about fians, fairies, and Picts in Scotch and English folk-lore, and his conclusions have been lately

³⁷ Cf. Macalister, *History of Civilization in Palestine*, pp. 12–13.

³⁸ In a letter of Sept. 16, 1914, to Mr. David MacRitchie, Prof. Macalister says: 'I should be inclined to doubt very strongly (a) the interpretation of *Gammādīm* as "pygmies", and (b) their equation to Caphtōrīm . . . The Caphtōrīm are altogether a late importation, and cannot, in my opinion, be equated to the neolithic people found at Gezer. The latter were a small, but not a pygmy people—say 5 ft. to 5 ft. 3 in. or so.'

³⁹ Cf. *The Testimony of Tradition* (London, 1890); *Fians, Fairies, and Picts* (London, 1893).

verified through an accumulation of evidence from various sources. For want of more light on the early history of Palestine, the present theory is quite sufficient to explain the appearance of giants and dwarfs in connexion with Philistine aborigines in the folk-lore of the early Hebrews.

(b) LEGENDS ABOUT INDIVIDUALS OF DWARFED STATURE.

The individual of dwarfed stature in non-dwarfed races is reckoned among nature's prodigies. As such, he is numbered with other abnormalities as a subject for the special blessing, *ברוך משנה הבריות*, 'Blessed is He who varies the form of His creatures', which was usually pronounced upon beholding a freak of nature (*Berakot* 88 b). In order to prevent a possible perpetuation of his abnormality the dwarf was forbidden to marry a woman similarly abnormal—*נכח לא ישא גבוהה שמה יצא מהן תורן ננס*, 'An abnormally tall man should not marry an abnormally tall woman lest they beget giant (lit. mast-like) progeny; while a dwarf should not marry a female dwarf lest they beget thumb-like offspring (*Bekorot* 45 b).' His abnormality makes him unfit for the performance of priestly duty (cf. *Mishnah Bekorot* 45 b). This prohibition originates, in the opinion of some of the commentators, from the injunction in *Lev.* 21. 20, which in the words of the A.V. counts among the unfit for the priesthood, 'a crookbackt, or a dwarf, or that hath a blemish in his eye' (*או נבן או דק או תבלל בעינו*). The translation is supported by *Ibn Ezra* and the *Peshitto*, although other authorities of importance render it differently.⁴⁰

⁴⁰ The LXX renders 'blear-eyed'—an opinion also upheld by the Vulgate, Saadia, and Rashi. *Targum Yerushalmi* gives both opinions.

The following interesting tale is used as a קישל in Genesis rabba 65. 11 and Cant. rabba 2. 15. A dwarf, whose mother curiously named him Macroclafros (μακρο-ελαφρός), 'Fleet-footed Giant', was refused admission into the king's service because of deficiency in height. To his mother's earnest plea on his behalf the king very appropriately replied: 'If in thy eyes he is a fleet-footed giant, in our eyes he is naught but a dwarf of dwarfs' (אם בעיניך). (מקרואלפרוס בעינינו הוא ננס שבננסים).

But most curious is the humorous description of Pharaoh which the Rabbis have transmitted to us in Moed Kāṭon 18a: ואמר אביטול ספרא מישמיה דרב, פרעה שהיה בימי משה הוא אמה וקנו אמה ופרמישחקו אמה וורת לקיים מה שנאמר, ושפל אנשים יקים עליה, 'Says Abital, the scribe, on the authority of Raf: "The Pharaoh of the days of Moses was a cubit [in height], his beard was a cubit, and his membrum virile was a cubit and a span", so that the text may be fulfilled—"He setteth up over it the basest of men" (Dan. 4. 17).'

The parallel passage in the Yalkūṭ to Dan. 4. 14 (besides omitting the ורת from the latter part) adds: ד"א זה נבוכדנאצר ר"א זה נבוכדנאצר, 'Others explain that this refers to Nebuchadnezzar, the dwarf, who was a hand-breadth in size.' The description is especially interesting in view of what Ctesias relates⁴¹ in his famous account of Indian dwarfs. He says: 'In the middle of India there are black men who are called pygmies. . . . They are very little, the tallest of them being but two cubits, and most of them but a cubit and a half high. They have very long hair, reaching down to their knees and lower, and a beard

⁴¹ Mr. MacRitchie first called attention to this curious parallel in the two accounts in an article on 'Egyptian and Jewish Pygmies' in the *Glasgow Herald*. This was reprinted in the *Hebrew Standard* of June 8, 1914.

larger than any human beings. After their beards are grown long they wear no clothes, but the hair of their head falls behind them much below their hams, and that of their beards in front comes down to their feet. . . . Their membrum virile is so long that it reaches to the ankle' (*loc. cit.*; and Tyson, *op. cit.*, pp. 23-4).⁴² It is quite likely that various exaggerated descriptions of dwarfs (of the Ctesias's type) reached the Rabbis through some hitherto unknown sources. The contention of Kohler (*J.E.*, V, 23) that the Rabbis identified either Pharaoh or Nebuchadnezzar with the image of a grotesque Egypto-Arabic idol, probably Bes, struck on the coins of the Ptolemies, has, accordingly, little in its favour.

The fact is, several passages in midrashic literature refer to Nebuchadnezzar as 'the dwarf of Babel', who, as the Yalkūt passage explicitly states, was said to be but a handbreadth in height. The last statement is inferred, according to the Rabbinic interpretation, from Dan. 4. 14, 'he setteth up over it the basest of men'. In Genesis rabba 16. 4, Theodor (*op. cit.*) correctly inserts the following passage (which has been omitted in the regular editions of the Midrash, but is found in manuscripts, and is to be inferred from the quotation in the commentary ascribed to Rashi *ad loc.*): שם האחד פישון זו בבל על שם ופשו פרשיו ועל שם ננסא⁴³: קורטא (*curtus*) קטיע פישנא: 'The name of one was Pishon—this is Babylon, so-called because of what the prophet said—"Their horsemen shall spread themselves (*pāšū*)

⁴² In view of the coincidence in these two descriptions of dwarfs, the clever emendation of Kohut (ערך השלם ע' פרמינחק), in which he translates: 'Pharaoh was a cubit, his grandparent (זקנו) a cubit, and the tallest [of his kin] (Sanskrit *prameshta*) a cubit and a span', loses its value.

⁴³ Cf. Theodor, *op. cit.*, *ad loc.*; Kohut, *op. cit.*, ע' קורטא; Buber, *Pesikta derab Kahana*, 112; and Friedmann, *Pesikta rabbeti*, 31, 4.

(Hab. I. 8) "and also because of the little dwarf, a hand-breadth (*puškā*) in size.' Similarly, the Levites complain (Friedmann, *Pesikta rabbeti*, 31. 4): לא דיינו שהחרבנו בית מקדשו בעונותינו אלא עכשיו אנו עומדים להקיש בכנורותינו לפני; הננס הזה; 'Not enough that the temple was destroyed for our sins, but we are now compelled to strike our harps before this dwarf', while on another occasion (Buber, *Pesikta derab Kahana*, 112) it is said,⁴⁴ כך אמר הק"ה חמון מה דעביר לי 'ננסא רבבל', 'Thus said the Holy one, "Behold what this dwarf of Babel hath done to me!"' Although the origin of this curious tradition is obscure, yet these various ludicrous descriptions of the conqueror of Jerusalem seem to be largely expressions of contempt indulged in by the Rabbis.

(c) GREEK PYGMY-LEGENDS IN MEDIAEVAL RABBINIC LITERATURE.

The references to dwarfs in the Rabbinic literature of the Middle Ages are mostly borrowed from late Greek sources. This is evident from the fact that three of these references employ the Greek word *πίθηξ* for the fabulous nation of pygmies. The word *πίθηξ*, which is identical with *πίθηκος*, and has the meaning of 'ape' in some late authors, is also defined as 'dwarf' by Suidas,⁴⁵ a lexicographer of the tenth century. The earliest of the three sources to employ this word in connexion with pygmies is the Josippon, an anony-

⁴⁴ Brüll (*Jahrbücher für jüdische Geschichte und Literatur*, Frankfurt a. M., 1876, II, 210) believes that the word ננס used in these passages is the same as ננא 'dog', but in view of what was herein set forth, this position is untenable.

⁴⁵ Cf. Bernhardt, *Suidas' Lexicon graece et latine*, III, 271, note. *πίθηξ δὲ παρὰ τισιν ὁ βραχὺς ἀνθρωπίσκος*. Bernhardt considers these words a later gloss.

mous work of the middle of the tenth century.⁴⁶ The other two sources are largely dependent on this work for some of their information, and may have borrowed the account of the pygmies from it. The Josippon partly consists of an Alexander romance borrowed from the work of Archpresbyter Leo's *Historia Alexandri magni, regis Macedoniae, de proeliis*, which, in turn, emanates, as all Alexandrian romances do, from the work of Pseudo-Callisthenes.

The Josippon tells the following about Alexander's visit to the land of the pygmies while on his way to India:

ויהי כאשר העביר אלכסנדר את כל הארץ תחתיו ויעבור מארץ מדי דרך המדבר הגדול עם רבים מיושבי הארץ ההיא ויבואו עד בקעה עמוקה לרוב וילכו בה ה' ימים וימצאו שם חיות משונות ופירות רבות וימצאו שם אנשים הנקראים פיתיקוש⁴⁷ בלשון יון והם ננסים ויבקש לתפוש חיים ויברחו וימיתו אנשים מהם מאה ועשרים והם המיתו מאנשיו שלשה אנשים ויאכל 'When Alexander had subdued the entire country, he passed from Media by way of the desert to India, accompanied by many inhabitants of those parts. They came to a very deep valley where they travelled for five days and found many remarkable animals and fruit. They also found a race of men known in Greek as "pitheces", and these were dwarfs. He attempted to capture them alive, but they fled. His men killed one hundred and twenty of them, while they killed three of his men. He ate the fruits of the place and passed the night there (Josippon, 2. 10).'

In another Alexander romance, ascribed to Samuel Ibn

⁴⁶ Cf. Steinschneider, *Jewish Literature* (London, 1857), p. 77; Zunz in the *Itinerary of Benjamin of Tudela* (ed. A. Asher, London, 1841), II, 246; and Budge, *History of Alexander the Great, being the Syriac Version of Pseudo-Callisthenes* (Cambridge, 1889), p. lxxxiv.

⁴⁷ Gagnier, *Josippon sive Iosephi ben Gorionis historiae Iudaicae* (Oxonii, 1706), p. 69, renders: 'Pithaci seu simiae'.

Tibbon of the twelfth century, the manuscript of which is in the Bodleian,⁴⁸ and which also emanates from a translation of Archpresbyter Leo's *Historia*, a similar account occurs:

וראה שם חיות משונות ומצא אילנות דומות לתפוחים וירא שם אנשים הנקראים פיתיקו וצואריהם ארוכים וידיהם . . . ויצו לתפוש מהם וברחו 'He saw peculiar animals there and found trees like unto apple-trees, and saw a race of men known as "pitheco" whose necks were long and hands . . . He ordered them to be captured, but they fled after he had killed thirty-two of their number, while they killed one hundred of his men (*Kōbeš 'al Yad*, II, 76).'

Levy adds (*ibid.*) that this passage is not found in the work of Leon. It is quite evident, from the fact that the work of Ibn Tibbon draws at times from the Alexander narrative in the Josippon, that this passage was either adapted directly from the latter work, or, as is quite likely, was based on a translation of the original from which the Josippon drew.

Another more detailed account of the legend about the pygmies and their fabulous battle with the cranes is to be found in several Hebrew versions of the letters of Prester John, published by Neubauer.⁴⁹ Although the pygmies

⁴⁸ Cf. Steinschneider, *Catal.*, 2486.

⁴⁹ Cf. 12-68 קבץ על יד חלק רביעי צד, and Eisenstein, *Ozar Midrashim*, II, 467-73 (New York, 1915). The first letter is entitled

אגרת אשר שלח פיטרי גואן אל פרדליק קיסר של רומאה:

while the other is

כתב ששלח פרישטי יואן לאפיפיור ברומאה:

A critical examination of the linguistic peculiarities of the two translations shows clearly that they are based on French translations from Latin originals (e.g. the words דוקים וקונטים = ducs et comtes : גריפום =

are merely mentioned by name in the various Latin versions of the same letters published by Zarncke,⁵⁰ yet there can be no doubt that the fantastic description of the wonders of India, of which they, for the most part, consist, was borrowed from the various Alexander romances, which were frequently expanded by introducing well-known tales from Greek and Roman mythology. Of the several versions published by Neubauer the following is the most complete account of the pygmy-legend:

וסמוך לארץ הזאת יש אחת שקורין אותו⁵¹ פיקוניה ואנשי הארץ הזאת הם קטנים כמו נערים משבעה שנים או שמונה וסוסיהם גדולים⁵² אבל הם נוצרים חשבים והם עובדים האדמה בשלוח שלא יש מי שיויק להם בעבור שיושבים במקום שלא יוכל שום אדם לעבור בארצם. אבל באה עליהם בכל שנה קללה כשהם קוצרים וכשהם בוצרים באים עליהם ענין אחד מעופות ואוכלים את פריהם וכשרואה מלך הארץ זה הולך עם אנשיו מזויינים להלחם עם אלו העופות ונותנים קולות ומברחים אותם ממקומם וזה המלחמה. ושני חיי אלו האנשים מאתים שנה ושער זקניהם הוא לכן כל ימי חייהם וזקנם 'Near this land there is another called Pyconia whose inhabitants are of the size of small boys of seven or eight. Their horses, however, are large. They are indeed good Christians and till their ground quietly, inasmuch as there are none to do them harm; for they dwell in a country inaccessible to human

l'aigle 'gryphus': עוף גואף = régale de St. Jean = griffon: גריפון = Godfrey: שפיר = saphir: מיראיל = merveille or miroir, &c.). For a complete account see the vocabulary of foreign words compiled by the present writer in the work of Eisenstein, *op. cit.*, II, pp. 596-606.

⁵⁰ Cf. *Abhandlungen d. königl. sächsischen Gesellschaft d. Wissenschaften*, philolog.-histor. Klasse, VII, 911, *et passim*.

⁵¹ Epstein (אלדר הדני), p. 65, Pressburg, 1891) surmises that 'Pygmonia' was the original name, meaning 'Pygmy-land'.

⁵² The anonymous author here attempts to correct Aristotle, who positively asserts that their horses were small (Τέρος μικρόν μέν, καὶ αὐτοὶ καὶ οἱ ἵπποι, *Hist. Animal.* VIII, cap. 12).

being. But every year a curse overtakes them. At the time when they reap their harvest a certain species of birds assails them and consumes their fruits. And when the king of the country perceives this, he sets out with his men armed to fight these birds who, with cries, are driven off from their territory. Such is the battle. Their length of life is two hundred years, and the hair of their beards is white throughout their life-time—their beards coming down over their knees and the hair of the women over their feet (*Kōbeş 'al Yad*, IV, 12).'

Finally, Judah Hadassi has a most faithful account of the battle of the cranes and the pygmies drawn from Greek sources in his large work *אשכל הכפר*.⁵³ The story is inserted in a catalogue of prodigies (e.g. the cynocephali, centaurs, &c.) much after the manner of the Josippon and the other Alexander romances, the use of which is further betrayed by the words *pitheccs* and *pithecon* which are found in the narrative. Hadassi, however, has embellished the story with minute details of the fighting scene drawn from his own fertile imagination:

מִיָּן פִּיתִיקוֹן בְּנֵי אֲמָתִים וְטוֹפָה שׁוֹכְנִים בְּמִקְוֹמוֹתָם בְּאַרְצוֹתֵיהֶם בְּמַלְכוּתָם
קָרֹב לְאַנֹּם גָּדוֹל בְּאַחַו בְּבִיצָה וְכָל טוֹב בְּשֵׁם מְרוֹקָה, הַמָּקוֹם הַהוּא מְבוֹשֵׁם
וּמְסוּמָם בְּכָל טוֹב בְּשֵׁם וּמְגִדִּיךְ: לְהַרְרִיהֶם וּמַעֲרֻתֵיהֶם וּגְבַעוֹתֵיהֶם שׁוֹכְנִים
עוֹפוֹת גְּדוֹלוֹת מִיָּנִי נֵץ וּפְרֵם וְעֻזְנִיָּה, בְּעָלֵי אֲבֵר וְנוֹצָה וְכִנֶּף וְנוֹבָה וְנוֹבָרָה
מְגִדְלוֹת, וּפְעַם אַחַת בְּשָׁנָה אֱלֹהֵי הָעוֹפוֹת מִתְקַבְּצִים יוֹם אֶחָד וְלוֹחֲמִים עִם
אֱלֹהֵי הַגְּמָדִים מִלְחָמָה גְּדוֹלָה עַדִּי עָרַב כְּמִלְחַמַּתְךָ: כָּלִי קָרַב חָרַב וְחֲנִית
מִסַּע וְיִשְׂרִיָּה מַעֲרִיכִים וְיִשְׂרָוִן וְכוֹבַע לֹבִשִׁים אֱלֹהֵי אֲנָשִׁי פִּתִּיקוֹשׁ כְּאַנְשֵׁי
מִלְחָמָה גְּבוּרֵי חֵיל, מַחֲנֶה גִדּוֹר עוֹרֵכִים, וְטָרַם בּוֹא זֶה יוֹם מִלְחַמָּתָם כָּל
רְכוּשׁ בְּתֵיהֶם וְצֹאנָם וּבִקְרָם טָפִם וְנִשְׁיָהם מִטְּמִינִים בְּמִטְמוּנֵי אֶרֶץ: יוֹם
אֶחָד נוֹדַע מִשָּׁנָה אֶל שָׁנָה וּמוֹמֵן לָהֶם מִיּוֹדְעֵי בֵּינָה יוֹשְׁבִים אֱלֹהֵי הָאֲנָשִׁים

⁵³ Eupatoria, 1829, 60 'Alphabet'. The work was begun in Constantinople in A.D. 1148.

מוכנים מעלות השחר מחכים המלחמה להתקונה וכאור בקר יורדים אלו העופות עליהם ומכסים את עין ארצך: טשים מעופפים עליהם ועורכים מלחמה אלה מול אלה עמהם העופות בצפרני רגליהם ובכנפיהם ובפיהם ואלה בחרבות ובהצים ומקל יד וברמת ומנן וכל כלי קרבין. . . ואיש אחד, גבוה ורום קומה וגבור מבני קושטנדינא הגלתו ספינתו בנכול ארצם. . . 'A kind of "pithecōn" two cubits and a span dwell in their territories near a large lake, where fragrant spices abound. Near their hills there are to be found several species of large birds, winged and powerful. At a certain time in the year these birds gather and fight an all-day battle with these pygmies. These "pitheces" array themselves in various kinds of armor and draw up their lines like trained soldiers. But before the day of battle is on, they hide their wealth, women, and children. On the day fixed by those who know the calendar, they lie prepared to give battle and at dawn the birds descend covering the light of heaven. They fly at them and fight them with their nails and beaks while the men use all sorts of warlike implements to meet them . . . A certain tall and powerful individual of the people of Constantinople was shipwrecked in their country . . . ('Eškōl Hakkōfer, 60 "Alphabet").'

Epstein wrongly surmises⁵⁴ that this was a part of the Eldad Hadānī tale quoted just before this story, for 'the man of Constantinople' can have nothing to do with the traveller Eldad Hadānī.

⁵⁴ *op. cit.*, p. 65.

FRAGMENTS OF SA'ADYĀH'S ARABIC PENTATEUCH COMMENTARY

BY HARTWIG HIRSCHFELD, Jews' College, London.

IN the earlier series of this periodical I published two fragments of Sa'adyāh's commentary on Exodus and Leviticus, which I had found in the Genizah Collection at Cambridge.¹ Latterly I discovered another fragment of the commentary on Exodus among the Genizah fragments preserved at the British Museum, and am pairing with it a second fragment on Leviticus belonging to the Bodleian Library at Oxford. As all these fragments are of different sizes and written in different hands, they cannot have formed parts of the same volume. This fact deserves some notice. Although manuscripts and fragments of Sa'adyāh's translation of the Pentateuch are frequent, specimens of his commentary are exceedingly rare. We see, however, that at least four copies must have been in circulation, and of each only one small fragment has come down to us. In explanation of this fact I can only repeat a suggestion ventured on a former occasion,² viz. that the copies were deliberately hidden or destroyed, presumably by Qaraites, since these commentaries teem with severe criticisms of Qaraite methods. Nay, the refutation of Qaraite interpretation seems to have been one of the chief aims of Sa'adyāh's

¹ *J.Q.R.*, vol. XVIII, pp. 600 sqq.; vol. XIX, pp. 136 sqq.

² *Ibid.*, p. 601.

Commentaries. It is probably for a similar reason that we do not possess a single complete copy of his polemical writings, and several of them are missing.

By a strange coincidence both our fragments form the beginning of new sections, each having a special heading and an introduction. There is, however, a difference in these headings which involves some difficulty. This difficulty is, indeed, small in fragment B, which is headed: *Commentary on the second half of the third part*. As it begins with Lev. 16 the term *second half* is all but correct, but fragment A is headed: *Commentary on the second part, the second half of the Tōrāh*. This implies that the *second part* is identical with the *second half*. The fragment begins with the exposition of Exod. 21, which does not halve the book, and much less the whole Pentateuch. It therefore seems that Sa'adyāh had a division of a different kind in view, a division which was also adopted by Qaraite interpreters,³ viz. to distinguish between the legislative and non-legislative portions of the Pentateuch, which would yield two parts of nearly equal length. But in this case we must assume that he included the Decalogue with its broad legislative outlines in the narrative chapters.

The material of both fragments is paper. Fragment A consists of *four* leaves, the size of each leaf being 15 × 20 cm. The square writing is very archaic, and might date from the tenth century. The letter *p* especially shows a little loop at the left top corner, and looks as if it were modelled on old inscriptions.

Our next task is to consider whether Sa'adyāh is the author of the work of which the fragment forms part, or

³ See Qirqisani Studies, pp. 10 sq. (not yet published).*

not. In the first instance it should be stated that the translation of the passages commented upon agrees with his translation as known to us. He also quotes the two passages, Job 38. 37, 38, the rendering of which, with slight variations, again tallies with his authentic translation of this book. As a matter of fact, it improves upon the same, bringing it nearer to the original by the selection of a word similar in sound to the Hebrew original.⁴ This is a well-known characteristic of Sa'adyānic translation. Now verse 38 is quoted both in our fragment and in his commentary on the *Sēpher Yeširāh* (2. 2),⁵ and in both cases in connexion with the earth as one of the four elements. Similarly the verses Prov. 3. 19–20, which are discussed in the opening passages of our fragment, are quoted in the author's *Book of Beliefs*,⁶ where he endeavours to show that Wisdom is created, and is discernible in the four elements and their spheres. If we turn to Sa'adyāh's comments on the verse just quoted we read as follows:⁷ 'This section states, as mentioned before, that the Creator created the world with Wisdom, I mean to say, He created it well established⁸ and without flaw. Likewise did He make its foundations as straight as Wisdom demands. The sage (author) here describes four things: the repose of the earth upon its axis, as laid down in the words *yāsad 'ereṣ*, the revolution of the sphere round it as stated in *kōnēn shāmayim*. Springs gush forth which water the earth as said in *t'hōmōth nibhīq'ū*, and rain and dew descend from on high according to the words *yir'aphū tāl*.' This passage is an

⁴ יסכן, Hebr. ישכן.

⁵ ed. Lambert, p. 43.

⁶ ed. Landauer, p. 92.

⁷ *Version arabe des Proverbes*, ed. Derenbourg and Lambert, p. 29.

⁸ מִחֲכָמָא, cp. our fragment, p. 365.

almost verbatim repetition of a similar one in our fragment.⁹

It is well known that Sa'adyāh attacked the Philonian theory of the eternity of the Logos (Wisdom) as well as that God employed it as a tool for the creation of the world. This denial is alluded to in our fragment and more fully repeated in the author's *Book of Beliefs*, as follows:¹⁰ 'I met people who interpret the passage Prov. 8. 22 to the effect that God is an eternal Word which never ceases creating together with Him. This I have already refuted on a former occasion¹¹ against those who refer it to spiritual beings. I explained that the word *qānāni* means "he has created me", and made it clear that this qualification refers to *Wisdom*, but it does not mean that He created the things with the help of a tool which is *Wisdom*. It only means that He created them well established.'¹²

After this, what doubt remains as to Sa'adyāh's authorship of our *Commentary*? It might, however, be asked why this philosophic discussion with its concomitant exposition of cosmic and mathematical theories was required as an introduction into the exposition of the civil

⁹ p. 365.

¹⁰ *Amānāt*, p. 89; see Guttman, *Die Religionsphilosophie des Saadia*, p. 106.

¹¹ This is either the passage in our fragment or his comment on Prov. 8. 22. The latter runs as follows: 'The Creator called His creation into being with *Wisdom*, i. e. perfectly well established (מחכמא תאמא). This makes clear the prophet's assertion that Wisdom necessarily preceded all created beings, since everything was created for its sake. Wisdom was created contemporaneously with the creation in the first moment (see Guttman, *ibid.*), since Time itself was then created, viz. as something well established (מחכמא). Wisdom is not a thing standing independently, since it cannot be detached from existing in aught which God has created.'

¹² מחכמא.

code of the Pentateuch. The train of the author's¹³ thoughts was this: God created the world as a well-arranged and firmly established whole with the spheres revolving round the earth in regular circles. This regularity is visible not only in the macrocosm, but also in the microcosms of plants and living beings, including man, who is endowed with senses and all the faculties of his soul, of which not one can be missed without impairing the integrity of the whole body. Man, therefore, cannot exist without well-established laws. This, then, also applies to the community whose rulers are bound to act on the same principle as the Creator, to dispense justice, and put down injustice and crime. For this reason the Tōrāh heads the code with the words: *Now these are the judgements.*

Before entering, however, into the interpretation of the text, the author makes further preliminary remarks. In the particle *!* he finds a syntactical connexion between the words *these are the judgements* and the preceding Decalogue, describing the former as a logical consequence of the latter, since the Decalogue comprised all the six hundred and thirteen commandments. The first of these is the declaration of the Unity of God as expressed in the Shema'. Laws are of three kinds: 1. those written in the Tōrāh; 2. national laws, though not written; 3. traditional laws, likewise unwritten.¹⁴

The fragment ends with a grammatical note which, in spite of its smallness, shows the author's deep knowledge of

¹³ The author here mentions his commentary on Deuteronomy, of which up till now no trace has been discovered.

¹⁴ The distinction of the various classes of law is, in a more elaborate form, dealt with in the third section of the author's *Book of Beliefs*, with the difference that the national laws with their sub-divisions are placed at the head.

the intricacies of the Hebrew language, and is a welcome addition to the scant relics of his linguistic achievements.

Fragment B consists of two leaves with 23 lines on each page. The writing is in square characters, but of a later type than fragment A. The first page was left blank for the title, which is wanting, but it bears a notice to the effect that the volume had been transferred to a certain Abraham. Another notice refers to a purchase, probably of the same volume, by Samuel Hallewi, after which the name Sa'adyāh is given.

Now this points to the fact that the fragment belonged to an independent booklet, if not a separate treatise. The heading of the fragment is of the kind to be found at the beginning of a new work. The introduction contains an elaborate *laus Dei*, emphasizing the connexion between the divine government and justice, and then dilates on the three sources of injustice.

An absolute proof of Sa'adyāh's authorship is given in the translation of the verses commented upon, especially in those passages in which the translation is of exegetical character.¹⁵

Unfortunately there is a gap after the first leaf, the missing pages probably dealing with the interpretation of the first eleven verses of chapter 16. The fragment ends with the translation and interpretation of verses 11-15.

Two passages deserve special attention because of the personal note the author seems to strike in them. In the first he speaks of three causes of injustice, viz. lack of discernment on the part of the judge to weigh circumstances, or his partiality, or his fear of one of the contending parties. This reads like a criticism of the conduct of the exilarch

¹⁵ Note particularly 'house of God' for 'God'.

David b. Zakkai, in consequence of which Sa'adyāh was driven from office. The second is the touching remark: 'whatever happens to us we must accept with gratitude', with the allusion to Prov. 3. 11. This not only sounds like a reference to his own sad experiences, but incidentally points to the period during which this commentary was composed. Noteworthy is also the protest against the doctrine of the Mohammedan sect of the *Fabariyya*,¹⁶ who taught that all man's actions were guided by a higher will, leaving no room for free choice.

A

Brit. Mus. Or. 5562. C. 15 × 20 cm.

ואלה המושפטים

Fol. 16 ro.
 תפסיר אלנן אלחאני אלנעף אלחאני מן אלתוריה קאל מתול
 דלך תבארך אלה אסראיל אלואחד אלדאים אלדי כלק אל
 אנראם אלעטאם מ'חכמה אד אברעהא מ'תקנה ועלי דלך אלחכאם
 ואלחתקאן וסאיר כליאתהא ונז'אתהא אבדא יתסב' אמא
 בער פאן אלחכאם ואלחתקאן אלדין דכרנאהמא מן פעל אלחאלק
 ונדנא אלכתב אלמקדסה תס'יחא חכמא ומערפה אד תקול י' ב'ח
 בחכמה יסד ארין ונז' בדעתו תהומות נבקעו ונז' עדר פי הדין אל
 פסוקין אלענאצר אלד' ענצר אלחראב בקולה יסד ארין וענצר אל
 נאר בקולה כונן שמים וענצר אלמא בקולה תהומות נבקעו וענצר
 אלהא בקולה ושחקים ירעפו טל ע'פנא אנה כלק דלך אנמע
 נמלה בחכמה ועלם ומערפה וליס יריר בדלך אן אלנ' אישיא
 חכמה ותבונה ודעת' כאנת קדימה ואנה אסתעמלהא כאלאלה פללק
 בהא אלענאצר אלד' ואנמא יריר אנה כלקהא מחכמה מתקנה
 מדברה. פוקנא נחן עלי א'חכמהא יציר חכמה' לנא. וכדאך

¹⁶ See Shahrastani transl. by Haarbrüker, I, p. 88.

וְתַקְנָהּ לָנָה וְתַדְבִּירָהּ יַעֲזֵר מַעֲרַפָּהּ לָנָה פִּינָה
 חִינִיךְ תַּסְמִיתָהּ חֲכָמָה וְתַבּוּנָה וְדַעַת. פֶּאֱוֹל אֶתְקַנָּהּ אָנָּה
 כְּלָקָהּ מִדְּרֹה כּוֹרִיָּה עָלֶי מֵא עַצ לִלְרָעֵדִין מִן רַעְדָּהּ וְקִאֲמַת
 בַּה אֶלְבְּרָהִין אֶלְהַנְדִּסְיָה וְעָלֶי מֵא קִאֲלַת אֶלְכַּתְבִּי אֵן אֶלְאֶרֶץ כְּאֶלֶם
 כְּאֶלְמַעֲלָקָה פִּי אֶלּוֹסַת קֹל תּוֹלָה אֶרֶץ עַל בְּלִי מֵה וּדְלַךְ אֵן אֶלְשַׁכֵּל
 אֶלְמַדּוּר הוּא אַתָּם אֶלְאִשְׁכָּאֵל וְלֹא יִקַּע פִּיה אֶבְחַלְאָף כְּמֵא יִקַּע פִּי
 אֶלְמַדְרַע וּוּוּאִיָּאָה. וְפִי אֶלְמַתְלַת וְאַצְלָאָה וּסְאִיר אֶלְאִשְׁכָּאֵל וּמַע
 מֵא הוּא אֶבְלִין אֶלְאִשְׁכָּאֵל וְאַתְלָהּ פֶּהוּ אִיִּצָּא אַעֲדֵלָה. וּדְלַךְ
 אֵן אֶלְנִקְטָה אֶלְתִּי תַכּוֹן פִּי מַרְכּוּזָה אֵן הִי אֶלְתִּי תַסְמָא מַרְכּוּזָה
 אִדּוּ יִכּוֹן בְּעֵדָהּ מִן גְּמִיעַ אֶלְמַחִיט בַּאֲלִסּוּא וְעָלֶי הוּא עֲצֵרַת
 אֶלְאֶרֶץ בַּעֲדָהּ מִן גְּמִיעַ נִקְט אֶלְפֶּלַךְ בַּאֲלִסּוּא וּמַעָּה דִּאִירָה
 אֶלְמֵא אִדּוּ הִי מִשְׁאֲבָהָ לְהָא לִם יִפְרַק אֶלְעֵלְמֵא קֵט בִּינְהֵמֵא
 פִּי אֶלְקֶדֶר וּבִנְסַבָּה אֶלְנִקְטָה אֶלִּי אֶלְמַחִיט: כְּדֹאךְ נִסְבָּה אֶלְמַחִיט אִיִּצָּא
 אֶלְיָהּ וּלְדֶלַךְ נִקּוֹל אֵן אַחַטָּה אֶלְפֶּלַךְ בַּאֲלֶרֶץ מִן כָּל גְּהָה מַחְסָאִיָּה
 וּכְדֹלַךְ יִכּוֹן בַּאֲלֶרֶרֶה אֶלְהוּא אֶלְדִּי בִינְהֵמֵא יִנְסַב אֶלִּי כָל וְאַחַד מִנְהֵמֵא
 בַּאֲעֵתְדָאֵל כְּמֵא אֵן אֶלְפִּצָּא אֶלְדִּי פִּימֵא בִּין אֶלְמַחִיט וְאַלְמַרְכּוּזָה הוּא מִן כָּל
 גְּהָה בַּאֲעֵתְדָאֵל וְקִאֲלַת אֶלְכַּתְבִּי פִּי מַתֵּל דְּלַךְ מִי יִסְפֵּר שַׁחֲקִים בַּחֲכָמָה
 בַּעֲקַת עֶפֶר לְמוֹצֵק וְרַגְבִּים יִדּוּבְקוּ וְתַרְגְּמַתָּהּ מִן יִדְבָּר אֶלְשׁוּאָהֻק
 בַּחֲכָמָה וְאַקְטָאֵב אֶלְסְמֵא מִן יִסְכְּנָהּ חֲתִי יִנְעַבָּה אֶלִּי מַרְכּוּזָה וְאַלְאֶפְהָאֵד
 תַּחֲלֹק וְאִיִּצָּא מֵא קֶאֶל בַּעֲזִי אֶלְמַוְהָדִין אֵן אֶלְאִשְׁכָּאֵל כְּלָהּ מַרְבָּעָה
 הִרְבָּא מִן אֵן יִכּוֹן אֶלְגִּז יִתְנָא בִּלָּא נְהִאִיָּה וְלֹא יַעֲלֵם אָנָּה אֶנְמֵא יִתְנָא
 בַּאֲלִקּוּהּ וְעִרְב אֶלְעֵלְמֵא לְהָדֵא מַתְלָא פִּקְאֵלוּ לוּ אֶבְדְּנָא חֲצֵאָה מִד
 מַדּוּרָה פּוֹצְעֵנָהּ דְּאֶכֶל קֶאֶרּוּרָה וְאַדְרָנָהּ עָלֶי אֶלְשֶׁהֵר לִוְגֵב
 אֵן תַּקּוֹם אֶלְחֲצֵאָה פִּי וְסֵט אֶלְקֶאֶרּוּרָה מֵא דִּאֲמַת אֶלְאֶדֶרָה תַּחִּיט
 בַּהּ כְּדֹלַךְ אֶלְהוּא לְמֵא אַחַט בַּאֲלֶרֶץ עָלֶי עֵדֵל מִן כָּל גְּהָה תַּחֲבַתָּה
 וְתוֹסַתָּה כֹּךְ יִי בַּחֲכָמָה יִסַּד אֶרֶץ וְבַה תַּבְתָּת קֵטֵב אֶלְסְמֵא פֶלֶם
 תַּתְּחַרֵּךְ וּלְדֶלַךְ קֶאֶל כּוֹנֵן שְׁמִים בַּתְּבוּנָה וּבַעֲדֵל וְאַעֲתָדָל תַּתְּפִּיךְ
 עֵינִן אֶלְמֵא פִּי אֶלְאֶרֶץ פֶּלֶא תִּנְקִין וּלְדֶלַךְ קֶאֶל בַּדְעָתוּ תַּחּוּמוֹת נִבְקַעוּ
 וּמַעֲנִי וְשַׁחֲקִים יִרְעִפוּ טַל אֵן חֲאֵלָה אֶלְקֶמֶר קִאִימָה פִּי אֶלְהוּא

אִדָּא כּאֵן מְקַדָּר אֶרְתַּפּאָעָה כּמָא אֶסְתַּדָּאֶרְהָא אֲתֵרַת טִלָּא
אוּ מְטֵרָא וְאֵן כּאֵלֶף דִּלְךָ כּאֵן מְנַהּ רִיחָא חֵם אֲנִיחָלֵת. וּכְמָא
אֵן אֶלְעֵדֶל מְמֹאֵן לִלְאָנְרָאם אֶלְעִמִּימָה כּדָּאךְ אֶלְאָנְסָאם אֶלְצִנָּאָר
מִמְתּוֹן בַּהּ וְדִלְךָ אֵן אֶלְנִבָּאֵת לֹא יִנְמוּ אֶלָּא בַּאֲעֵתְדָאֵל מִן אֶלְאָנְזָא Fol. 2 ro.
אֶלָּא אֶלְאֶצוּל עֲלֵי מָא נִשְׁאָהֵר פִּיהּ קָאֵלָה אֶלְכְּתַב מְנַגַּה מְמֵטֵר דִּשְׁא
מֹאֲרִץ פֹּאן כִּרְגֵן אֶמְתּוֹנָהָא עֵן אֶלְאֶעֲתַדָּאֵל לֵם יִנְמוּ אֶלְנִבָּאֵת כֶּךָ
פִּי בַעֲיִן אֶלְאֻקָּאֵת כִּי יִבְשׁוּ אֶפִּיקֵי מִיָּם וְאִשׁ אֶכְלָה נְאוּת הַמְדִּבֵּר
וְאֶבְרָאֵן אֶלְחִיּוּאֵן אִיִּצְאֵן] אֶנְמָא תְּבַקָּא בַּאֲעֵתְדָאֵל מִן אֶנְזָא אֶלָּא עֲנָאֶצֶר
כּמָא נִשְׁאָהֵר וְעֲלֵי מָא קָאֵל אֶלְנִבִּי כִּי כַּה אִמֵּר יִי אֱלִי אִשְׁקֵטָה
וְאִבִּיטָה מִמְכּוֹנִי וְגו'. לֹאֵן אֶלְדְּבָא בַּעַד אֶלְמֵטֵר יַעֲדֵל תַּאֲתִירָה
וְאֶלְנִדָּא בַּעַד אֶלְצִיף יַעֲדֵל תַּאֲתִירָה פֹּאן אֶסְדָּרְף אַחְדָּהָא לֵם יַעֲיִשׁ
אֶלְחִיּוּאֵן כֶּךָ כְּחֶרֶב בַּעֲיִין וְגו'. וְנִטִּיר דִּלְךָ יִכּוֹן אֶלְתַּעֲדִיל פִּי קוּי אֶלְסִמַּע
וְאֶלְבְּצֵר וְאֶלְמִשֶּׁם וְאֶלְדּוֹק וְאֶלְלִמְס וְסֹאִיר אֶלִּיִּךְ אֶלְקוּהָ אֶלְתִּי פִּי אֶלְאֶנְסָאֵן
בֹּל לֹא תַחֵם אֶלָּא בַּעֲדֵל וְאֶעֲתַדָּאֵל. וְאִיתְהֵן כִּרְגָתָּ מִן הָדָא אֶלְאֶעֲתַדָּאֵל
צַעֲפַת וְאֶמְרִצֵּת וְיִתְנֵן מִן הָדָא אֶלְמִקְדָּמָאֵת אֵן אֶלְנָאֵם אִדּ לֹא יַעֲ
יַעֲיִשׁוּן אֶלָּא בַּאֶסְבָּאֵב פִּיִּנְבֵּן אֵן תְּכוֹן בִּינְהֵם אַחְכָּאֵם עֲאֻדְלָה
וּפּוֹאֲצֵל מְנַצֵּפָה חֲתִי יִסְתְּקִים אֶמְרָהֵם וְיִבְקוּן כּמָא נִשְׁאָהֵר
וּכְמָא קָאֵלֵת אֶלְכְּתַב כִּי כֹאֲשֵׁר מִשְׁפֹּטִיךְ לֹאֲרִץ צִדְקוֹ לְמִדּוֹ וְיֹשְׁבֵי
תְּבֵל וְלִדְלֶךְ סְמִית אֶלְאֶחְכָּאֵם חֲכִמָּה וְתִבּוֹנָה וְדַעַת לֹאֶנְהָא מְעֵתְדֻלָּה
עֲאֻדְלָה שְׂבִיחָהּ בְּבִינָה אֶלְעֵאֶלֶם אִדּ קָאֵל כִּי חֲכִמַת אֱלֹהִים בְּקִרְבּוֹ
לְעִשׂוֹת מִשְׁפֹּט. וְאִיִּצְא וְיִשְׁאֵלֵת לֶךְ הַבֵּין לִשְׁמַע מִשְׁפֹּט וְאִיִּצְא
דִּן דִּין עֲנִי וְאִבִּיּוֹן אִזּ טוֹב הֵלֵא הִיא הַדַּעַת אֲתִי נָאֵם יִי. וְעֲלִי
הָדָא אֶלְאֶצוּל יִקּוּל אֵן אֶלְמֶלֶךְ אֶלְמְכִלּוֹק אִדָּא אַעֲדֵל תְּבַת אֶלְבִּלְד
וְאִדָּא גֹאֵר אֶכְרַבָּה מִן קוּלָּה מֶלֶךְ בְּמִשְׁפֹּט יַעֲמִיד אֲרִץ וְגו' כּמָא
אֵן מֶלֶךְ אֶלְמִלּוֹךְ וְאֶלְכָּאֶלֶק אֶנְמָא תִּבֵּת אֶלְעֵאֶלֶם בַּחֲכֵם וְעֵדֵל עֲלִי
מָא שְׂרַחְנָא וְיִתְבָּחָה אִיִּצְא בַּחֲכִמָּה פִּי מָא בֵּין עֲבָאֵדָה פֹּלָא
יִמִּיל כֶּךָ אֶף תְּכוֹן תְּבֵל בֹּל תִּמּוּט: נְכוֹן כּסָּאךְ מָאֵן וְדִכֵּר
אֶלְכִּסָּא לָלֵה פִּי כֹל מוֹצֵעַ יִשִּׁיר אֱלִי חֲכֵם וְקִצָּא וְעֵדֵל כֶּךָ וְיִי לְעוֹלָם Fol. 2 vo.
יִשֵּׁב כּוֹנֵן לְמִשְׁפֹּט כּסָּאֵן וְהוּא יִשְׁפֹּט תְּבֵל בַּעֲדָךְ וְגו' וְאֻנְבֵּן עֲלִי

אלמלך אן תרגב פי אלעדל ואלאנצאף אד בהמא יתבת כראסיהם
 ותשנא אלגור אלטלם אד בהמא תבטל כִּךְ חועבת מלכים עשות רע
 רעון מלכים שפתי צדק ועלי הדיא וּבִכְךְ אלגאירין ואלטאלמין באנהם
 חֲסֹבֹן אנהם יפסדון פי מאל ועקאד ולא יעלמון אנהם יהרמון
 אסאם אלעאלם עלי מא וצפנא אד קאל שפטו דל ויתום ונו' פלטו דל
 ואביון ונו' לא ידעו ולא יבינו ונו' פאן קאל קאיל קד ראינא כתירא
 מן אלנאס יגורון ויטלמון פלא יהלך אלעאלם כלה בל לא בלדהם בל לא
 הם אנפסהם קלנא כמא אנא נרי אנסאן קד אסתחכמת פיה אל
 עלל אלקאתלה פלים יעדי מן אן יגאודה בל הו נפסה לא יהלך
 ובמא אן אלחאנה פי אלעליל ואול אמרה אלי אלהלאך ואן לם יענל
 כראך אלחאנה פי אלגאיר ואלטאלם יאול אמרה אלי אלהלאך ואן לם יעאנל
 ועלי מא קאל לא יכון אדם ברשע ועלי הדיא ועד אלחכים באנה
 ימודד קומה בִּדְ אשיא יִתֵּם בהא עדלהם שרף הו כתאנִי¹⁷ לִרְוֹ
 לרוסאחם וכעצאבה לבלפאחם כִּךְ ביום ההוא יהיה יי צבאות
 לעטרת צבי: וצחה חכם לחכמאחם וקוה למנפדיה פי בלאדהם
 כִּךְ בערה ולרוח משפט ונו' ולדלך אמר רסולה אלואל פי אבואב
 אלאחכאם ואלה המיפטים
 והדיא אלאחכאם אלתי תתלוהא עליהם. יקול אולא ואלה ולם יקול
 אלה לאנהא מצמומה אלי מא קבלהא. והי קצה עשר הדברות
 והי גמאעה תריג מצות כמא עאדתנא אן נשרח. פאול דלך
 קצה אלתחיד אעני קרית שמע כמא סנשרח פי משנה תורה אן
 אלרסול קאל ען מוקף הר סיני ואתי צוה יי בעת ההיא ללמד אתכם
 וכפאה אן יתלוהא עליהם אולא לאנה לו חכם עליהם בהא
 כריהה מן גיר מואפקה כאן למשתרי אלעבד אלעבראני אן
 יקול אנא אנמא אשתרית ליכדמני אבדא אלא אן ימות: ולו
 עלמת אנה אנמא יכדמני סבע סנין לם אשתריה: וכדלך פי
 סאיר אלאבואב. ולכן למא תלאהא אלרסול עליהם פרצו בהא
 כמא קאל בעד הדיא ויבא משה ויספר לעם את כל דברי יי

Fol. 3 ro.

¹⁷ MS. כתאב, which is evidently an error of the copyist.

ואת כל המשפטים ויען כל העם קול אחד ויאמרו כל הרברים
 אשר דבר יי נעשה חכם בהא עליהם עלי תלך
 אלמואפקה ודלך אלרצא נחן סאירון וחאכמון טול אלומאן
 וקבל אן נבתדי בתרגמה נץ שי מן אלאחכאם. נקדם אנא¹⁸
 שארחו מעאני כל חכם מן ד אצול ממא הו פי נץ אלמכתוב
 וממא הו מעקול ועלי אנה לים מכתוב ונצם אליהמא איצא
 מא הו מנקול ואן לס יכון מכתובא ולא נגדה פי כל ואחר
 מן אלאהנין אעני אלמנקול¹⁹ ולכן נאכד מנהמא מא לא בד
 מנהמא אלדי הו באלקוה פקט ואעלם אן כל קצה מן הדה
 אלאחכאם אדא ראיתהא גויה פהי תמאם וכמאל
 לשריעה בלייה מעקולה או מנוצעה פי מוצע אכר
 פאד קר קדמנא דלך פנבתדי באלקצה אלאולי קצה
 נין אבתיאע אלעביד אליהוד קאל פי נצה כי תקנה וקאל
 להם אדא אבתעת עברא עבראניא פליכרמך סת סנין
 ופי אלסאבע יכרג חרדא מנאנא אם בנפו ואן דכל
 עזבא כרג עזבא ואן כאן דא זונה פלחכרג זונתה מעה
 אם אדוניו ואן דפע אליה מולאה זונה פתלד לה בנינא
 או בנאתא פאלזונה ואולאדהא תכון למולאהא והוו יכרג
 עזבא אם אמר יאמר פאן קאל אלעבד אחבבת מולאי וזונתי
 וואולאדי לים אכרג חרדא. והנישו פליקרמה מולאה אלי
 אלאחכס חתי יקרמה אלי אלבאב או אלמלבן ויסם מולאה אדנה
 במיסם פיכרמה אלי אלדהר : אול מא ינבני אן נלתמסה
 מן מעאני הדה אלקצה לם געל צדר אלאחכאם אבתיאע
 אלעביד אלעבראנין אעני קצה כי תקנה וכי ימכר איש
 פנקול אן אלמצות באנמאעהא למא כאנת דאללה פי שרוח
 עשרת הרברות וכאן אלדיבור אלאול פיה אשר הוצאתיך
 מארץ מצרים מבית עבדים געל אול אלאבואב אלעביד
 אלעבראנין. ומנהא עלל חכם אלעביד הנאך בקול כד

¹⁸ אנהם Probably.¹⁹ MS. באלקות.

לִי בְּנֵי יִשְׂרָאֵל עֲבָדִים עֲבָדֵי הֵם אֲשֶׁר הוּצְאתִי אֹתָם מֵאֶרֶץ
 מִצְרַיִם אֲנִי יְיָ אֱלֹהֵיכֶם פָּסוּק מִשְׁאֲבֵה לְגִמְלָה אֶלְדִּבּוֹר אֶלְאוּל
 תָּם נְקוּל כִּמְא קִדְמָנָא אֵן צִדְר הָדָא אֶלְחֶכֶם מִן נְהָה אֶל
 מַעְקוּל יוֹגֵב תַּצְחִיח אֶלְבִּיּוּע וּלְאֶשְׁרִיִּיָּה עֲלֵי אֶלְפְּרִיקִין פִּמְנָה מֵא
 יוּבֵאלֵג וּיְקוּל צִחָה לְאֶכִּיך אֶלְבִּיּוּע וְלוּ בַעְתָּה נַפְסֶך וְקוּלָּה
 עֲבֵר עֲבָרִי בָאֵן פִּי אוּל אֶלְמַסְמוּע יַחְתַּמֵּל אֵן יְכוּן אֶלְמַבִּיּוּע
 עֲבֵרֵאנִיָּא וְאֵן כֵּאֵן עֲבָרָא לְרָגֵל עֲבֵרֵאנִיָּא. פִּלְמָא קֵאל
 הִנֵּאךְ כִּי יִמְכֹּר לֶךְ אַחִיךְ הָעֲבָרִי וְאֶל אֱלֹהִים אֶלְתָּאנִי וְקֵד
 וְקוּלָּה כִּי תִקְנֶה יִמְעֵ בִיעָה הוּ נַפְסָה לֶךְ מִן חֲאָגָה וְבִיע
 אֶלְחֶאכֶם לָהּ בַּחֲאָגָה פַּעֲלֵי אֶלְוָהִין גְּמִיעָא לֹא יִבָּעֵ אַכְתֵּר
 מִן סָה סִנִּין וְאֶלְדִּי יִטֹּן אֵן בִּיע אֶלְמוּמִן נַפְסָה לְאֶכִּיָּה אֶלְמוּמִן
 גִּיר גָּאִיז לֹאֵן אֶלְוִלִי קֵאל מוֹנְבֵא לְבִאִיעִי אֶנְפַּסְתֶּם וְמֵן פִּי
 חֲאִשִּׁיתֶהֶם וְגַם אֹתָם תִּמְכְּרוּ אֶת אַחֵיכֶם וְנִמְכְּרוּ לָנוּ
 פִּלְם יִכֹּן לָחֶם גְּוֹאֵב לְתַמָּאֵם אֶלְפִּסּוֹק וַיַּחְרִישׁוּ וְלֹא מִצְאוּ דְבַר
 נִבְיָן לָהּ אֵן אֶלְמַדְכּוּרִין גְּנוּ גִנְאִיתִין אַחְרִיהֶמָּא אֵן בִּאִיעִי
 אֶנְפַּסְתֶּם לְלִנְוִים לְקוּלָּהֶם כְּדִי בְּנוּ יַעֲנִי עֲלֵי מֵא נֹאֶלֶת אִידִינָא
 וְאֶלְתָּאנִי אֵן בַּעְצָהֶם בָּאֵע גִּירָה מִמֵּן פִּי חֲאִשִּׁיתָה לְקוּלָּה לָחֶם
 תִּמְכְּרוּ אֶת אַחֵיכֶם: וְהָדָא אֶמְרָאֵן לָם תִּטְלַקְהֶם אֶלְתּוֹרָה:
 פִּלְדֵּלֶךְ קֵאלוּ וַיַּחְרִישׁוּ וְלֹא מִצְאוּ דְבַר. וְקוּלָּה יוֹשֵׁשׁ שְׁנִים יַעֲבֵר
 אֶמְר לְלַעֲבֵד אֵן יִכְרֵם מוּלָּאָה סְבַע סִנִּין וְלֹא יִמְתַּנֵּע מִן דִּלֶךְ וְקוּלָּה
 וּבִשְׁבַעַת יִצָּא יוֹגֵב תּוֹפִיָּה אֶלְמוּלָא סְבַע סִנִּין מִן יוֹם אֵלֵי יוֹם
 כֹּאנָה אֵן כֵּאֵן וְקַת אֶלְבִּיּוּע טֹאעֲנָא פִּי סִנָּה אֶלְתָּאֲרִיךְ שְׁהֲרִין אוּ חִלְתָּה
 פִּיטַעַן יִצָּא פִּי אֶלְסֹאֲבַע בְּמִקְרָאֵר בֹּאֶלְקֶסֶט וְאִיצָּא וְלוּ לָם
 יִטַּעַן פִּיָּהָ שִׂיא לְוֵיב עֲלֵי אֶלְעֲבֵד אֶסְתָּהָאֵר לְמוּלָּאָה בְּשִׁי מִן
 אֶלְסֹאֲבַעָה לִיצָּה לָהּ אֶלּוּפָא כִּמְא יִגֵּב עֲלֵי כָל וְאִזֵּן וְכֹאִיל וּמֹאסָה אֵן
 יִסְתָּהֵר בֹּאֶלְרִנְחָאֵן לְצֹאֲחֵב אֶלְחֶק אֶלְדִּי עֲלִיה. וַיִּמְכֹּן אֵן יְכוּן לְהִרָה
 אֶלְעֵלָה כְּתַבְת וּבִשְׁבַעַת נֹאֶקֶצָא אֶלְיוּרִין גְּמִיעָא לִיּוֹקַע אֶלְתַּמָּאֵמִן
 גְּמִיעָא עֲלִיהָ אֶלְתַּמָּאֵם אֶלְחֶסֶאֲבִי וְאֶלְתַּמָּאֵם אֶלְמַסְתָּהֲרִי עֲלֵי
 מֵא שְׁרַחְנָא וְאִדָּא קֵאל יִצָּא לְחַפְשִׁי לָם אֶלְק בַּה חֲנַם אֶתְרָאנָא
 בָּאֵן נְתוּהֶם יֹאכֹד מִנָּה תִּמְנָה וְיַעֲתֵק לָהּ פִּנְקוּל פִּי זִיאֲרֵתָה חֲנַם

ד' אקואל אלעזר ערפנא אנה לא יחתאנן אלי כחאב עחק לכנה חנם
 מן כחאב ואלב ערפנא אנה לא ילומה יופי מולאה נפקא
 אנפקאה פי עלאנן ומדואה פהו חנם מן ופא אלנפקאת ואלב
 ערפנא אנה אן מרין מדה מא פליס ילומה אן יעוצה מולאה
 מתל תלך אליאס בער אלד סנין פהו חנם מן אלחעוין. פאלי
 כס יבלג הדא אלמקראר. פנקול כמא נא פי אלאחאר אן מדה
 אלמרין מחמא תבון אקל מן נצף אלסבע סנין לס ילומה קצאהא Fol. 4 vo.
 פאן כאנת אבחר מן אלנצף ונב עלי קצאיה והדא אלחכס
 לו לס יני פי אלמאהור לברג מן אלמעקול בל מן אלמכתוב
 פאמא מן אלמעקול פאן גמיע אלישיא תחמל עלי אלאגלב
 עליהא כמא הו פי אלקצא עלי כל מונוד כאלהארה ואלברודה
 ואלרטובה ואליוססה וסאיר אלאמור כדאך ההונא אן גלבה.
 מדה אלעמל לס תקן אלבטאלה ואן גלבת מדה אלבטאלה קצית
 ואמא מן אלמכתוב פאן אלתורה קאלת פי אלמוצע אלאכר פי משנה
 ישכר שכיר עבדך שש שנים ומעני דלך אנהא אבאחת ללמולא
 אן ישתריה באקל מן מא תסאוי אגרתה כת סנין בדאנן
 וברבע ובתלת ואלי אלנצף. פלדלך אן סלמת לה צחה אלברן
 כדמה מא יסאוי צעף אגרה אלאגיר פאן לחקה מרין מא
 דאס הו פי מדה אלרבה אעני אלצעף יחתמלה אלמולא פאן
 מד ראס אלמאל אלדי הו אלנצף ונב אן יעוין אלמולא חתי לא
 יפסד מן ראס מאלה וקולה אס בגפו יבא דאת אללפטא
 בדנה וטהרה עלי טריק אלאבדאל לאן אלטהר ואלברן יקאל להמא
 גיו ונב ונף פאמא גיו פכמא קאל ותשימי כארין גוור ואמא
 נף פכמא קאל ההונא אס בגפו יבא ודלך אן בי ווא ומס
 משתרכה פי אלאבדאל כק על גפי גבי מרומי קרת וקאל על גבי
 חרשו חרשים וכמא קאל גרסה נפשי לתאבה מקאס
 לתאוה פאעל אללפטא בדנה ומענאה אלאנפראד ואלעזובה
 ולס תך בנא חאנה אלא אן לנא אס בגפו יבא בגפו יצא
 לדאת אלחכס אד לס נכן נתוהם אן יאכז מנה שיא מן בית

B

MS. Bodl. 2862. 28 fol. 81 vo. 14 x 19 cm.

Fol. 81 vo.

בשמך רחמנא הכל בורא במאמר ולא ביגיעה
 חפסיר אלנעץ אלב מן אלנז אלהאלת חסב מא תצמנת ישראית
 אלעדר אלמקדם אולא. אפתתח מעבר דלך פקאל תבארך
 אללה אלאה אסראיל אלעזיו אלחכים אלעלי אלעטים אלמלך אלחק
 אלמבין וצח עדלה פטהר וסמי חקה פבהר נפח אלעקול ענה
 אלגור ואלטלם ואבעדח אלחכמה ענה אלכטא ואלוהם דיאן
 אלחק חאכם אלעדל אלדי לא יגור פי קצאה ולא יכפא עליה
 מא בראה וקד נטק בדלך פי מחכם כתאבה עלי יד אנביאיה
 אלמרסלין צדק ומשפט מכון כס חס וא יק פנ : קאלו ען
 רבהם תעאלי ותסבח אלעדל ואלחכם מהיא כרסיך אלפצל
 ואלחאסאן יחצראן בין ידיך שבה תבאתה בקואם עדלה
 וצחח עזה תסרמד חכמה כק' גל גלאלה ויוי לעולם ישב כונן
 למיש כס' והוא ישפט תבל בצ' וגו' וכיף יגוז עליה אלגור או
 אלטלם והדאן לא יכונאן אלא ען אחר ג' אסבאב אמא ען
 קלה בצר באלחאכאם וכמא יגב לכל כאינה חאדהה וילום
 כל כאינה והו גל ועד אלבציר בהא קבל אן תכון פאחרי בעד
 כונהא ואלעלים בהא קבל אן תחדת פאוחד פימא בעד דלך
 כק מניד מראשית אחרית ומק' וגו'. או ען חאנה מן אלחאכם
 ורנבה אלי בעין דואעי אלהרר ושאנה פימיל ען טריק אלחכם עלי
 ועלי אנה בציר והו תסבח ותמגד אלגני אלמלי מן גיר אסתפאדה
 מן נירה מלך אלסמואת ואלארצין כק' הן ליי אלהיך השמים ושמי
 השמים וגו'. ואמא ען כוף יכאף אלחאכם אלמחכום עליה
 פיאחבי הרבה מנה לה ואן כאן קד עלם במא ילומה והו תקדסת

Fol. 82 ro.

תדבירא וסהאמא לאילאמהם. ואיצא אראד תשריפנא אן
 גמיע מא ינאלנא מן אלאלם ואלמצאייב ואלגמום קלילא כאן אם
 בתירא פהו עלי חכמה גאריה ותדביר מדבר לילא נקול כק'

אלפלשתים פי אמראצהם מקרה הוא היה לנו אד כאן אילאם
 אלבהאים אַגראָה עלי תקריר בגורלות פכף אילאם
 אלנאם אלדי הם אשרף אלחיואן ואגלה פגמיע מא ינאלא נקבלה
 שברא ונתיקן אנה לצלאח לנא כק מוסר יי בני אל תמאם וגו'
 כי את אשר יאהב יי יוכיח וגו' ולא נתקול עליה פיה אלכרב ואלמחאל
 כמא ובך וקאל ואנכי אפדם והמה דברו עלי כו'. בל לא נתחמה
 פיה אלבתה כמא ובך איצא ואני יסרתי חוקתי זרעתם ואלי יחשב
 רע עבדתה אנה אדבתהם לאשדד קואהם יעני למצלחה
 להם ומנפוע והם יחסבון עלי אשר. ואיצא לנעלם אן לים
 ללקדים פי אפעאל אלמחדת מדכלא מן באב אלגבר בוגה
 לאן אלאמר לו כאן כדאך לאקתצר עלי מא יגעה פי נפס כהן
 גדול מן תקריב ואחד מן אלשעירים ותפציל אלזכר באכתיארה
 ויכון אלדי יגעל לה אלמשיה ואלעזימה עלי דלך בל לם יקנעה
 דלך חתי געלהא בגורלות לתכרנ מן באב אכתיאר אלנאסן
 ופסרת גורל אחד ליי לבית אללה לאני וגדת אסם קרבן חטאת
 ינמעאה ומוצע תקריבהמא מבתלפין. וחיתמא כאנא פהמא
 ליי פינב אן אפער גורל אחד ליי לבית אללה וכמא שרת בעד
 דלך והקריב אהרן את השעיר אשר עלה עליו וגו' וקולה הדא
 והקריב לים הדא וקת דבחה לאנה יקול בעד הדא אלאפעאל
 אלתאבעה להדא ושחט את שעיר החטאת וגו' ולכן מעני
 קולה הדא והקריב יעולה ויקרבה פי אלוקת אלדי יצלח פיה כמא
 סיבין. ומן קולה פי אלשעיר אלזכר יעמד חי לפני יי ערפנא אנה
 אנמא יכון חיא מהמא הו מקים לפני יי יעני פי אלקדם ואמא
 ענר מצירה אלי גבל עזאול פלא ינון אן יקים חיא אלבתה בל יתפצל
 פי אלגבל והדא מן אליה ניסין אלתי שרחנאהא פהדא שרח אלדת
 אלאפעאל אלזאואיל מן עמל יום הכפורים וודוי אלפר. תם אלמסאהמה
 תם עולה אלמקרקע עליהמא כל ואחד פי מוצעה תם ודוי אלפר
 תאניה ודבחה תם ילי הדא אלד אעמאל ד אכר קאל אולהא
 ולקח ויאכז מל אלמגמרה גמר נאר מן פוק אלמדבח

מן בין ידי אללה ומל חפניה מן בכור אלעמאנ אלמדקוקה
 וידכל דלך דאכל אלסנף. ונתן חם יצע דלך אלבכור עלי אלנאר בין
 ידי אללה חתי ינטי קתאר אלבכור אלנשא אלדי עלי אלשהאדה ולאיות
 ולקה חם יאכד מן דם אלת באעבעה וינצח עלי ונה אלנשא
 שרקא ובין ידי אלנשא ינצח מנה ז' מראר. ויטחט חם ידבח
 עתור אלדכוה אלדי ללקום וידכל דמה דאכל אלסנף ויעמל בה
 כמא עמל בדם אלת והו אן ינצח מנה עלי אלנשא ובין ידיה.
 וכפר. ויסתנפר פי אלקדם מן מעאצי בני אסראיל וגרומחם
 וגמיע כטאחם וכדאך יעמל פי כבא אלמחצר אלסאכן מעחם
 בין מעאציהם וכל וכל ואחד מן אלנאם לאן יכון פי כבא אלמחצר
 מן וקת דכולה ללאסתנפאר פי אלקדם אלי כרונה פארא אסתנפר
 ענה וען אלה וען סאיר נזק אל אסראיל. ויצא. יכרג אלי אלמדבח
 אלדי בין ידי אללה ואסתנפר ענדה ואכד מן דם אלגת ואלעתור וגעל
 עלי ארכאנה מסתדירא. והוה. חם נצח עלי סטחה מן

TRANSLATION

A

Interpretation of the *second part*, the *second half* of the Tōrāh. Says the author: Blessed be God, the God of Israel, the One and Everlasting, Who has created the great [heavenly] bodies as an everlasting system, since He devised them in steadfast order. For this firm and stable arrangement in its entirety as well as its details be He praised for ever.

The above-mentioned firm and well-appointed system established by the Creator we find called in Holy Writ judgement and omniscience, as in Prov. 3. 19-20.²⁰ These

²⁰ See above, p. 361. In his commentary on Job. 28 the author says as follows: Wisdom has no price for which it can be bought, as is the case

two passages allude to the four elements, viz. earth (*He has founded the earth*), fire (*He has established the heavens*), water (*the depths are broken up*), air (*the clouds drop down dew*). This is to teach us that He created all this with judgement, knowledge, and understanding. It does not, however, mean that these three attributes, viz. wisdom, knowledge, and understanding, are without beginning, and were used by Him as tools,²¹ by means of which He created the four elements; it simply means that He created (the elements) firmly established and well regulated. We call this strong fabric *wisdom*, the firm arrangement *understanding*, and the regularity *knowledge*, being parallel to the terms *ḥokhmāh*, *ʾēbhūnāh*, *dā'ath*.

The first point in this strong fabric is that He created the elements in revolving spheres, as is borne out by observation and mathematical demonstration. The Bible describes this (Job 26. 7), saying, that the earth is suspended in the centre. The spherical circumference is the most perfect figure, being without inequality [of radius], as is the case with the corners of a quadrilateral figure, or the sides

with other precious things, but Job refers all this to God, as in v. 23, and he puts it in the place of the wisdom of creation which is only known to God. He further compares it with the forces of nature, the working of which only He knows, as expressed in v. 24. Here are mentioned heaven and wind and earth and water, which are the elements unknown to man as to their nature and effect, &c.

²¹ On Prov. 8. 22 sqq. Sa'adyāh comments as follows: Reason testifies and the Bible expresses it that the Creator created the world with wisdom, i. e. firmly established and perfect. This confirms the words of the prophet (Solomon) that wisdom was necessarily created before everything else, since everything was created for its sake, whilst it was created together with the creation in one moment, since time itself was created by means of it, i. e. firmly established. Although Wisdom itself is not an independent being, it necessarily exists in everything that God has created.

of a triangle and other figures. The circle is the purest, most perfect, and regular figure. The point in its middle is called the centre, since its distance from every point of the circumference is the same. For this reason the distance of the earth from all points of the sphere is the same. The sphere of the water being similarly constituted is, in the opinion of the learned, in no way different in respect of the relation of its centre to the circumference. The same is the case with the relation of the surrounding sphere to the centre, and we therefore say that the sphere that surrounds the earth is absolutely circular. The same rule necessarily applies to the air which is between them, standing in equal relation to both, just as the interstice between the sphere and the centre is everywhere equal. This is expressed in Job 38. 37, 38, which I translate: Who arranges the clouds with wisdom, and who places the poles of the sky . . . so that he plants it on its axis, and the hubs are firmly fixed. If some monotheist says that all forms are quadrilateral, he does so to avoid [saying] that any part can be infinitely divided, without being aware that this is only potentially so. Scholars illustrate this by the following example: If we set a stone gyrating, put it inside a glass vessel and make it revolve round its centre, the stone must be in the middle of the vessel as long as the revolution lasts. Thus, as long as the atmosphere surrounds the earth in equal distance from all sides it is firmly fixed and keeps the centre as stated in Prov. 3. 19. By this means the pole of heaven is immoveably fixed. The next passage describes how on account of keeping this equilibrium springs of water are opened upon earth, lest it be wanting. The meaning of the concluding words of the verse is that when the extent of the elevation of the moon in the air surpasses its

circle, it causes dew or rain ; if it be behind, it is accompanied by rain, and then decreases.

Just as regularity is inherent in the great bodies, so it is with the small ones. Plants do not grow except by a well proportioned mixture of the four elements. The Bible expresses this in 2 Sam. 23. 4. If the mixture become disproportionate, no plant can grow, as stated in Joel 1. 20. Also the bodies of animals are preserved by proportioned composition from the four elements, as we know from experience as well as find it expressed in Isa. 18. 4, because the gentle wind after the rain regulates its effect. If one element were wanting, no animal could live, as intimated in Isa. 25. 5. Similar regularity prevails in the faculties of hearing, seeing, smelling, tasting, and feeling, and the other sixteen faculties of man, which can only be perfect if the right proportions prevail. If any of them be missing, weakness and disease ensue. From these propositions it follows that man cannot live except under certain conditions. He requires just laws in order to preserve his status as we see it, and scripture hath it in Isa. 26. 9. For this reason the established order is described by the terms *wisdom*, *knowledge*, and *understanding*, parallel to that displayed in the structure of the world and confirmed in 1 Kings 3. 28 ; 3. 11 and Jeremiah 22. 16.

On these grounds the Bible says that when the human king reigns justly, the state endures, but when he is unjust, he destroys it, as stated in Prov. 29. 8. Thus also the Supreme King established the world with law and justice, as explained before ; and He established it with unfailing wisdom amongst His servants, as we read in Ps. 93. 1, 2. Attributing the throne to God, everywhere alludes to government, providence, and justice, as stated in Ps. 9. 8.

He placed on kings the obligation to strive after justice and fairness, since it is through them that their thrones are rendered firm, injustice and crime are abhorred and destroyed, as stated in Prov. 16. 12-13.²² The Bible rebukes the unjust and wicked because they act unjustly in matters of money and agreements, without considering that they destroy the foundations of the world, as we remarked before, and also find in Ps. 82. 3-5.

If some one say, 'we see many people who act unjustly and wickedly, but neither the whole world, nor even their city or their persons perish', we answer: Suppose we see a person seized by deadly diseases, he does not omit to ask any one who may benefit him, yet he perishes not. As the sick person is doomed to die, though by slow degrees, so is the wicked person doomed to perish, though not very soon, as intimated in Prov. 12. 3. For this reason the prophet (Isa. 28. 5-6) promises that God would aid His people with four things, through which their justice should become perfect, a loftiness which is like a crown²³ for their princes and a diadem for their chiefs, and a (source of) true justice for their judges, and strength for those who spread it in the cities. His first messenger (Moses) therefore says in 'the chapters of the judgements' as follows:

'Now these are the judgements which thou shalt recite to them.'

²² Sa'adyāh translates these two verses as follows: (12) It is necessary that the kings abhor doing evil, because the throne can only be firm through justice. (13) And it is necessary that they delight in true speech and love truthful words. He comments on these verses thus: These two verses mean that the Creator built the structure of the world upon truth and sealed it with justice, otherwise it cannot remain.

²³ The original of this passage is corrupt; see the foot-note to the Arabic text.

The Book says: *now these*, but not *these*, because they are included in the preceding Ten Commandments, which comprise the six hundred and thirteen commandments as we generally explain them. The first of them is that of the Unification of God by reading the *Shema*, as we shall expound it in the book of Deuteronomy. Moses, when speaking about the scene at mount Sinai, alluded (Deut. 4. 14) to the statutes and judgements, but at first he did not more than recite them to them. For, had he made them incumbent on them against their consent, a person buying a Hebrew slave could say: I only bought him to serve me for life, and had I known that he would serve me but seven years, I would not have bought him. After Moses had recited the Ten Commandments, and they had accepted them, as stated in Exod. 24. 3, he decided in accordance with their consent, and we do the same at all times.

Before we begin the interpretation of the text of any of these we must, by way of preface, state three sources of laws: *first*, such written in the Tōrāh; *secondly*, rational laws which are not biblical; *thirdly*, traditional laws not comprehended in any of the previous classes. Theoretically speaking, however, we take from them²⁴ what is indispensable; and note that each of these regulations, when looked at individually, is supplementary to the whole of the Law, be it rational or written somewhere.

[Here follows the translation of verses 2-6.]

The first question attaching to these verses is the following: Why are the laws concerning the purchase of Hebrew slaves placed at the head? The answer is this: Since all laws are but explanatory to the Decalogue, and the first commandment alludes to the 'house of slaves', the

²⁴ The Ten Commandments.

law of the Hebrew slaves is given the first place. A similar conception must be given to the verses, Lev. 25. 43-55.

From this the rational law of strict dealing between two parties is to be deduced. It emphatically demands to be as strict when dealing on behalf of a third person as for oneself. The words *'ebed ibhri* when first heard might mean that the seller is a Hebrew,²⁵ but this idea is dispelled by Deut. 15. 12. In the words *בִּי חִקְנֶה* are united his selling himself on account of want, or his being sold by [order of] the judge for the same reason. For either reason he cannot be sold for a longer term than six years. If any one imagines that a believing Israelite is not allowed to sell himself to his co-religionist (because Nehemiah said²⁶ to those who sold themselves and their dependents: *And will you even sell your brethren, and shall they be sold unto you? but they had no answer*, as the end of the verse shows), we explain to him that those who do so commit two mistakes; first, those who sold themselves to Gentiles did so *after our ability*; and the second is the sale of a dependent as alluded to in the words *will you sell your brother?* Neither of these matters is absolutely laid down in the Tōrah, consequently *they held their peace and found no answer*.

(ver. 2) *Six years he shall serve* is an injunction to the slave to serve his master seven years without demur, whilst the term *in the seventh* expresses the obligation to complete seven years from day to day. If at the time of purchase he had allowed two or three months of the calendar year to pass, he should do the same in the seventh. Even if he had not entered after the beginning of the year, the slave must serve some part of the seventh year in order to give full

²⁵ עֶבֶד עִבְרִי can also be translated *the slave of a Hebrew*.

²⁶ Ch. 5, ver. 8.

value, just as a merchant must weigh or measure fully. Perhaps for this reason the word *בשבעה* is spelt without the two *yōdh*, in order to throw the duty upon him of serving full time both in respect of date and labour. The words *for nothing* are added lest we imagine that the owner, when liberating the slave, take his redemption money, and allow *three* interpretations: *first*, that the slave requires no letter of freedom; *secondly*, that he need not repay his master any expenses for medical treatment; *thirdly*, he need not after the seven years have passed make up for any time lost through illness. If the time of illness was less than half the seven years, he (the slave) need not repay him, but if it was more he must repay him. Though this be not traditional law, it is a rational, nay even a biblical law. Rationally speaking all things are judged by quantity; as heat, cold, moisture, dryness, &c. So here, too, if the time of his work be the largest, he need not pay for the time of inability to work; but if the latter was greater he must pay compensation. The Bible expresses this at another place (Deut. 15. 18), permitting the master to buy him for a *dāniq*, or one-fourth or one-third less than his wages would come to in six years. If the slave remain in good health he serves his master for twice the amount of his wages, but not more. If he be ill all the time profiting by it even to twice the amount, his master must bear it. If the capital, viz. half of the amount, be large, he must compensate the owner for any loss of his capital.

(ver. 3) *If he came by himself.* The word *נף* means his body and back, for which there are, with interchange of letters, the words *נף*, *נב* and *נו* in the following passages: Isa. 51. 23, Prov. 9. 3, Ps. 129. 3; 119. 20, where *תאבה* is used for *תאבה*. The meaning of the word is body, and is

applied to individuality and singleness. We only require this explanation, as we do not imagine that he would take anything else from the house . . .

B.

Interpretation of the *second half* of the *third part*, inasmuch as it takes into account the conditions laid down in the earlier part :

Praised be the God of Israel, the Almighty and exalted King, whose justice is clearly manifest, and to whom injustice and sin are denied by the human mind. There is no injustice in His decrees, nor is hidden from Him whatever He created. This is expressed in Ps. 89. 15, where His permanence is compared to the steadfastness of His justice, and is further emphasized in Ps. 9. 8-9. How can there be in Him injustice or wickedness, since both arise from one of three causes : *first*, insufficient appreciation of the value of the circumstances, whilst He knows everything clearly before it arises, and verifies it afterwards as taught in Isa. 46. 10 ; *secondly*, the judge's desire to yield to the demands of the time which makes him deviate from the path of justice, whilst He is rich beyond everything, does not desire to benefit from the king of heaven and earth. This is stated in Deut. 10. 14. The *third* cause is the judge's fear of the judged person, although he is aware how he ought to judge.

Fol. 82 vo. God desired to lift us up [to the belief] that every pain, accident, or grief, small or great, that happens to us is sent by Providence, lest we speak as the Philistines did during the plague (1 Sam. 6. 9). The painful affliction of animals may be determined by lot, but how about man, the noblest

of living beings? Whatever happens to us we must accept with gratitude, and be convinced that it is for our good, as we find in Prov. 3. 11–12. We must not invent false and absurd talk about Him, and which He impugns in Hos. 7. 13, 15. It further teaches us that God does not interfere with man's actions so as to make them involuntary. For if this were so He would confine Himself to put in the mind of the High Priest the offering of one of the goats and leave the other to his free choice,²⁷ and as his wish determined, but this was not satisfactory to Him, and He settled it by lots in order to remove it from man's choice.

The words *lot for God* I translated *for the house of God*, because they share the name of sin-offering, and although the places of their being sacrificed were different, they were both offered up to God. The word וְהִקְרִיב (ver. 9) does not refer to the slaughter (of the goat), which is spoken of in ver. 15, but he shall put it aside for the proper moment. Verse 10 means that the goat must be alive as long as it stands before God in the sanctuary, but this does not apply to its arrival at the mount Azāzel, when it is dismembered. This is one of the eighteen miracles which we have explained. These are the four first acts in the practice of the Day of Atonement. The confession of sins over the bullock, then the casting of the lot, then removing of each of the goats to its place, then the confession of sins over the second bullock and its slaughter. The next group of four actions are expounded in verses 12–19.

²⁷ This being no real free choice.

SYRIAC VERSIONS OF THE OLD TESTAMENT

BY ALPHONSE MINGANA, John Rylands Library,
Manchester.

I

ALL scholars who have perused the Syriac Version of the Old Testament have arrived at the conclusion that it is a direct translation from the Hebrew, though not always corresponding exactly with the Massoretic text of our day. One of the most obscure questions which attracts the mind of a Biblical scholar is the precise epoch of its appearance; but it is fairly certain that the translation of many Books of first necessity for daily worship saw the light before A.D. 200. It is, indeed, highly improbable that the strong Christian community of Syria and Mesopotamia, which was for the major part of Israelite extraction, could remain till that time without Psalter and Pentateuch. Moreover, since this community was sufficiently numerous at about A.D. 150, it is very unlikely that the above-mentioned Books were not already translated even before the middle of the second century. Merx¹ goes so far as to state that Bardesanes of Edessa knew the Pshiṭta of the Old Testament.

On the other hand, Hebrew having ceased to be the language of the majority of the Israelite nation, the common people could with difficulty understand the sacred style used in books read only by the authoritative caste of the

¹ *Bardesanes von Edessa*, Halle, 1863, p. 19.

Rabbis. For this reason, it is not safe to think that the Jewish community of Osrhoéne did not prove a very powerful factor in the production of this Version. We purposely use the word Osrhoéne because we firmly believe that the Pshiṭta has been elaborated in Western Mesopotamia, probably at Edessa. Its wording represents the Edessenian Aramaic language which, from the first half of the second century, became the sole sacred language in the Near East, from the Eastern Mediterranean shores as far as China, and from Taurus and the Caspian Sea to the Southern parts of the Arabian peninsula, and was used also in many parts of Egypt and Abyssinia. This Edessenian dialect influenced, for a long time, several of the most stubborn Jewish circles of Assyria and Babylonia. By personal knowledge I am aware that, in our own days, in many Israelite centres of great importance, like Zâkho, 50 miles NW. of Mosul (the ancient Nineveh), Shéranesh, 15 miles NE. of Zâkho, and Dehók, 35 miles N. of Mosul, this Mesopotamian Aramaic, mixed sometimes with the dialect of the Targūms, is spoken and used for daily transactions and daily worship. In my last travels in the East I visited four times these Israelite communities, and I took, on the spot, some linguistic notes that I hope some day to publish.

The Edessenian dialect differed in some points from the Aramaic used in Palestine and in Syria, at the beginning of the Christian era. The language of Palestine contained generally more Hebraic vocables and forms of verbs. The nouns of action, for instance, of the derived verbs ܦܥܠ and ܦܥܠܐ were formed by adding a Zḵâpha to the second radical, as in Arabic; and the suffix-pronouns were all pronounced at the end of a verb or a noun, ex. gr. *kūmi*

(arise) fem. for *kūm* of the Mesopotamian dialect. This Arabo-Hebraic current in Aramaic was even found in particles and in substantives, for example, when the Mesopotamians pronounced ܐܠܝܫܐ *small* and ܐܠܝܐ *where*, the Palestinians read ܐܠܝܫܐ and ܐܠܝܐ. On orthographic grounds, the Palestinian Aramaic was marked by its preference for the graphic fusion of words. An instance of this phenomenon is found in the particle ܐܝܢ which is frequently joined with the following word by the complete rejection of its Nūn.

The Aramaic dialect of Mesopotamia was less influenced by the outside world, and became, through the impulsion of Christianity, starting at Edessa, the Syriac commonly so-called; but the Aramaic of Palestine has partly been Hellenized, as we find it, in later generations, in Palestinian Syriac, and has partly been Arabicized, and we encounter it to-day in such a form in the village of Ma'lūlah near Damascus, and has partly been Hebraized, when the Arameans began to fade away under a Western domination; the language having lost, for official business, the importance that it had for centuries before, its character of a mixed Arameo-Hebrew became more strongly accentuated, and for decades it was almost exactly the multicoloured dialect used in the Targūms.

We lay stress upon the above statements in order to make it clear that the Old Testament Pshiṭta is surely a Mesopotamian production, without any appreciable Hellenic savour. This assertion is rendered more plausible by the influence of the Targūms which is sometimes felt in a strange manner in many Books. This influence has been noticed by Perles in the Pentateuch,² by Cornill for

² *Meletemata Peschiltoniana*, Breslau, 1859.

Ezechiël,³ and by Siegmund for the book of Chronicles.⁴ We cannot explain this influence of the Targūms without the previous help of some Judeo-Christians. The Targūms have never had any honour in the Eastern Christian circles, and no writer has ever mentioned their name. To think, therefore, that some Jewish Rabbis, new converts to Christianity, have taken an active share in the preparation of a Version which would tend to spread among Eastern nations the Torah and the Prophets is, as stated above, not in contradiction to the course of events. The Christian Church of that period was Judaic, and nothing is known of its being linked with Hellenic circles. It is only towards the end of the second century that a slight change was noticed. If we can credit the legendary book, *Doctrine of Addai*, with a certain historical value, this first step towards the 'Catholicity' of the Aramean Church with the Hellenized parts of Syria, would have taken place under Bishop Pālūt. We are informed that this bishop went to Antioch, and received his ordination from Serapion, bishop of this Metropolis. No other confirmation of this important event is known to exist in an historical book, but, however insufficient is its authority, we may accept it, in the absence of a better proof, as possible, inasmuch as no serious critic has so far positively contradicted it.

In spite of the great ascendancy of the Jewish colony, some Talmudic meanings of Hebrew words have not been given their right linguistic sense; for instance, Isa. 7. 14, the Hebrew word עלמה in the sentence הנה העלמה הרה וילדת בן is translated into Syriac by the word

³ *Das Buch des Propheten Ezechiël*, Leipzig, 1886, 154-5.

⁴ *Die syrische Uebersetzung zu den Büchern der Chronik*, in 'Jahrb. für prot. Theologie', 1879.

ܘܥܠܡܐ *virgin*, to make it conform to the Evangelical quotation (Matt. i. 23), but it is clear that this Semitic term corresponding with the Arabic غلام and the Aramaic ܘܥܠܡܐ means simply in its masculine form a *young man* married or unmarried, and, in its feminine form, a *young woman* married or unmarried. Moreover, that this word is taken sometimes exclusively in the sense of a *married woman* is clear from the following sentence which does not suffer another interpretation (Prov. 30. 19) 'There are four things that I know not . . . and the way of a man with a married woman' ודרך גבר בעלמה. The four things are evidently cases of an action which leaves no obvious record behind it, the serpent on the rock, the ship in the sea, the bird in the air, and, by consequence, the woman alluded to is not a virgin.

At the beginning of the fourth century, when the union between the Aramean Church and the Graeco-Roman Christendom was cemented by the Christian attitude of Constantine, and some years later by the persecution of Eastern Christians which was believed to have been occasioned by Israelites who were at the time in favour with the Queen Ephra Hormiz,⁵ an enterprise was unanimously undertaken to revise the Syriac Version and to make it more in harmony with the Septuagint which was the only Version in use among the utterly Hellenized population of the greater part of Syria and Palestine. We have already pointed to the possibility of the New Testament Pshîṭta having undergone at this period a similar revision according to the Greek text;⁶ the way was opened and the Old Testament Version followed, at a short interval of time, its consort of the New Testament.

⁵ *Talm. Ta'anit* 24 b.

⁶ *Expository Times*, May, 1915.

This recension has not been carried out in the same way in all the sacred Books; the Psalter⁷ and the prophetic Books have been, on account of their important rôle in the New Testament, more accurately collated with the Greek Version; Job and the Proverbs, on which the Targūms depend, have scarcely been touched; the same may be said, but in a lesser degree, of Genesis.

The Pshiṭta Version, as may easily be gathered from what has been written, is of paramount importance for the criticism of the Massoretic text, and its study cannot be too highly estimated in our dealings with Biblical questions. The following study claims to show, in a very succinct manner, and with a few illustrations, the merits and the defects of this Version, and may perhaps be considered, so far as we are aware, not the second one, in Scriptural investigations intended to make more fully understood the words and precepts of the Lord.

II

We reduce the chief points of comparison of the Syriac translation with the original to five: (1) the case where the translation is wrong; (2) the case where it is too literal; (3) the case where a Rabbinical gloss is added to the original; (4) the case where it exhibits another text; (5) the case where it omits a word or two.

We will take as illustrations instances from the first thirteen chapters of the book of Genesis which have undergone little change in the Septuagint.

Under the first case:

(1) (1. 1). 'In the beginning Elohim created the heaven(s)

⁷ Cf. F. Berg. *The influence of the Sept. upon the Pesh. Psalter*, New York, 1895.

and the earth.' The Hebrew objective particle **את** is rendered here only by the word 'essence', so that the sentence runs thus: 'the essence of the heaven and the essence of the earth'.

(2) (1. 29) 'And Elohim said, Behold I have given you every herb producing a seed which is upon the face of all the earth.' The words **זרע זרע** are translated by 'of the seed which is sown'.

(3) (2. 8) 'And Yahwéh Elohim planted a garden eastward.' The word **מקדמ** is literally translated, here only, by **ܒܥܡ ܒܥܡ** which means 'from the beginning'.

(4) (9. 19) 'These three (were) the sons of Noah and of these all the earth was overspread.' The sentence **ܫܡܝܥ ܐܠܝܗ ܠܒܢܝܢ ܢܦܨܬ ܕܢܚܠ ܕܠܗܝܡܐ ܕܠܗܝܡܐ** is translated by: **ܠܒܢܝܢ ܕܢܚܠ ܕܠܗܝܡܐ ܕܠܗܝܡܐ** 'and from these they spread over all the earth'.

(5) (13. 9) 'Is not all the earth before thy face?' The Massoretic interrogative particle **הלא** is superseded by **הינה** and rendered by 'behold'.

Under the second case:

(1) (2. 3) 'And Elohim blessed the seventh day and hallowed it, because He rested in it from all His work which Elohim had created and made.'

The final words **אשר ברא אלהים לעשות** are rendered by the sentence: **ܕܝܗܘܐ ܕܥܠܡ ܕܥܠܡ ܕܥܠܡ** 'that God created to do', which is a pure Hebraism having no clear meaning in Syriac.

(2) (2. 5) 'And there was not a man to till the ground.' The word **האדם** taken here in a general sense of 'man' is rendered by the proper name **ܐܕܡ**.

(3) (2. 22) 'And the rib which Jahveh Elohim had taken from the man, builded he into a woman.' The Syriac construction of the sentence ending in **ܠܐܡܪܐ** is

a Hebraism giving no natural sense by the use of the Lamed.

Under the third case:

(1) (4. 20) 'And 'Adah bare Iabal; he became the father of the dweller in tents, and (having) cattle.' Between the words אָהֵל and וּמִקְנֶה the Syriac adds סְמִיכָא 'and those who possess'.

(2) (4. 25) 'And Adam knew his wife again.' The Syriac inserts the word 'Eve' before 'his wife'.

(3) (5. 5) The Syriac has, 'And all the days of the life...', in inserting the words 'his life'.

(4) (12. 3) 'And I will bless them that bless thee, and him that despiseth thee will I curse, and in thee shall all families of the earth be blessed.' The Syriac adds the word סְדִיחָא after הָאֲדָמָה so that the phrase becomes 'and in thee and in thy posterity shall all the families of the earth be blessed'. These words may be considered as an interpolation by a Christian hand to make the promise more applicable to the Christ.

(5) (13. 18) 'And Abram moved his tent and came and dwelt by the terebinths of Mamré.' The Syriac inserts the relative adjective אֲמֹרִי 'Amorite' after the word Mamré.

Under the fourth case:

(1) (3. 16): 'Unto the woman He said: I will greatly multiply thy sorrow and thy conception; in sorrow thou shalt bring forth children, and thy desire shall be to thy husband, and he shall rule over thee.' The Syriac has סְחָא חֲדָשָׁא לְאִפְסָא 'and thou shalt turn to (or against) thy husband'. The translation of the easy Massoretic particle אֶל by עַל which means more frequently 'against', and the change of the letter ק into a כ in the word חֲשׂוֹקֶתָּ which in other places is rightly rendered by 'desire' would

point to a certain change in the sacred text which we have to-day. The LXX have also ἀποστροφή.

(2) (4. 8) 'And Cain said unto Abel his brother, and it happened that at their being in the field (while they were in the field), Cain rose up against Abel his brother, and killed him.' There is possibly something missing in the text, since we are not told what Cain said unto Abel. The Pshitta supplies this by the insertion of ܠܝܕܥܝܢ ܕܥܝܢܐ 'let us go to the field'.

(3) (6. 3) 'And Jahweh said: "My spirit will not rule in man for ever".' The Syriac has ܠܐ ܕܡܝܬܐ ܕܝܗܘܐ 'will not dwell', which suits the context better; and induces us to suppose that the original might have been ידון for ידון.

(4) (6. 9) 'These are the generations of Noah. Noah was a righteous man and blameless in his generations; Noah walked with God.' The Syriac has 'and Noah pleased God', a sense nearer to the Septuagint εὐηρέστησεν δὲ Νῶε τῷ Θεῷ.

(5) (13. 12) 'Abram dwelt in the land of Canaan, and Lot dwelt in the towns of the Kikkar, and placed his tents as far as Sodom.' Instead of ܝܢܐܗܠ the Syriac has ܠܡܝܬܐ 'and inherited', with the change of ܢ into ܢ and of ܐ into ܢ, which the Hebrew letters easily bear.

Under the fifth case:

(9. 22) 'And Ham, the father of Canaan, saw the nakedness of his father and told his two brothers without.' The word ܒܚܝܢ is utterly missing in Syriac.

The kind of study which we have made for only thirteen chapters of the book of Genesis, will suffice to give an adequate idea of the Syriac Version. The reader can safely draw the conclusion that all the books of the Old

Testament may be more or less submitted to this criticism with an absolutely identical result. It would therefore be useless to give our inquiry a wider scope; but we may remark that there are sometimes complete changes in proper names, and sometimes slight ones. So 8. 4, the word 'Ararat', in Assyrian 'Urartu', is rendered by the Parthian name 'Ḳardu', and 13. 10 the word Ṣo'ar is written Ṣa'ân.

III

While for the New Testament the Aramean and the Judeo-Christian populations of Mesopotamia, Syria, and Palestine, used several Versions made directly from the Greek, they contented themselves, for the Old Testament, with the Pshiṭta. At a very late date, when the Christological movement strengthened the union between the Western Syrians and their Hellenic co-religionists reigning at Constantinople, a purely private enterprise to produce a text directly from the Greek took place about A.D. 500: the work of Philoxenus of Hierapolis, elaborated with the help of the Chorepiscopus Polycarpus;⁸ and more than a hundred years later the Hexapla was translated from 615 to 617 by Paul, Bishop of Tella of Mauzela, which Western geographers called Constantina.

These two versions, though very important for the criticism of the text of the Septuagint, could never possess the slightest prestige in the Churches, and the Pshiṭta remained after, as it was before, the sole official version of Syriac-speaking communities. The two Hellenized versions were only known to a few scholars, who through them

⁸ This date has been vindicated by us in a study which will soon appear in the *Expositor*.

vainly tried on some occasions to criticize the previous standard text. Even at as late a date as the thirteenth century the well-known Bar Hebraeus opened a campaign against the Pshiṭta in favour of the Hexapla. A special chapter is devoted in his Syriac Grammar entitled 'The Rays' to prove its superiority to the Pshiṭta;⁹ but such isolated cavils remained ineffectual, and the love of ecclesiastical circles for the first version was so accentuated, that MSS. of the two Hellenized secondary versions have been doomed to scarcity at all periods, and in our days the Philoxenian is known only by scanty fragments, and the Hexapla is preserved in an incomplete form in a few European libraries, and in some old monasteries of the East.

The Old Testament Syriac is, therefore, one, and as it has not undergone any substantial change from the date to which the oldest manuscripts belong, we can hardly find in its text any important variant. The quotations also of the Syrian Fathers, who undoubtedly use the Pshiṭta alone, with only the addition or omission of a particle or a trifling word, pointing to the fact that they were quoting from memory, corroborate the point of a single Version.

There are, however, in the possession of Dr. Agnes S. Lewis a few palimpsest leaves, which, by exhibiting a text somewhat different from the established Version, afford a number of perplexities to critics. We mean the text published by her in No. XI of the series entitled *Studia Sinaitica*. The best way to give an idea of this curious text is to print some of its phrases side by side with the standard text of the Pshiṭta.

⁹ In P. Martin's *Œuvres grammaticales d'Abou'l Faradj dit Bar Hebraeus*, 1872, vol. I, p. 240.

LEWISIAN MS.

- 𐤇𐤃𐤁 p. 122 He put on.
 𐤇𐤃𐤁𐤀 p. 122 its founda-
 tions.
 𐤇𐤃𐤁 𐤇𐤃𐤁 p. 124 Sheol
 is naked.
 𐤇𐤃𐤁 p. 124 garment.
 𐤇𐤃𐤁 𐤇𐤃𐤁 p. 124 Do not outgo.
 𐤇𐤃𐤁 p. 124 in his hand.
 𐤇𐤃𐤁 p. 120 Hawila.
 𐤇𐤃𐤁 𐤇𐤃𐤁 p. 120 and he re-
 stricted.
 𐤇𐤃𐤁 p. 120 they will heap.
 𐤇𐤃𐤁 𐤇𐤃𐤁 p. 119 (His
 princes) will go to per-
 dition.
 𐤇𐤃𐤁 p. 116 from the sign.
 𐤇𐤃𐤁 p. 119 will be wet.
 𐤇𐤃𐤁 𐤇𐤃𐤁 p. 122
 over the surface of all the
 earth.
 𐤇𐤃𐤁 p. 122 water.
 𐤇𐤃𐤁 𐤇𐤃𐤁 p. 122 its columns.
 𐤇𐤃𐤁 p. 123 for the rain.

PSHITTA.

- 𐤇𐤃𐤁 Ps. 104. 2 (same mean-
 ing).
 𐤇𐤃𐤁 Job 9. 6 (same mean-
 ing).
 𐤇𐤃𐤁 Job 26. 6
 (same meaning).
 𐤇𐤃𐤁 *ibid.* (same meaning).
 𐤇𐤃𐤁 Job 38. 11 Do not go
 increasing in.
 𐤇𐤃𐤁 *ibid.* 12 in his hand-
 ful.
 𐤇𐤃𐤁 Isa. 60. 6 Sheba.
 𐤇𐤃𐤁 Exod. 14. 25 and
 linked.
 𐤇𐤃𐤁 Isa. 60. 7 they will
 gather.
 𐤇𐤃𐤁 Isa. 34. 12 (same mean-
 ing).
 𐤇𐤃𐤁 Isa. 31. 9 from
 before the sign.
 𐤇𐤃𐤁 Isa. 34. 7 will be in-
 toxicated.
 𐤇𐤃𐤁 Amos 5. 8
 over the surface of the
 earth.
 𐤇𐤃𐤁 Ps. 104. 3 in the
 water.
 𐤇𐤃𐤁 Job 9. 6 its in-
 habitants.
 𐤇𐤃𐤁 Ps. 134. 7 (same
 meaning).

These are only the most striking variants that the MS. offers when compared with the Pshiṭta. For quotations from the Psalms and from Job we have not included such variant readings as may be due to too much freedom on the part of the unknown author; but to believe that this author, who, at any rate, seems to have been a serious writer, would have been so eccentric as purposely to change many words of the sacred text when quoting them, is a most improbable hypothesis. We cannot find in Syriac literature any one so fanciful; and the question ought therefore to be approached from a different point of view.

We have seen that the Syriac Churches of a later date possessed, besides the Pshiṭta, the Philoxenian and the Hexapla versions. Can then these few verses printed by Mrs. Lewis be drawn from one of these two versions? A negative answer is the only one possible, because the text is evidently a direct translation from the Hebrew, and no Syriac writer of importance has ever used these versions. Moreover, Mrs. Lewis's MS. is certainly very ancient, and if it may be assigned to a date later than the time of Philoxenus, it has doubtless preceded by many years the epoch of Paul of Tella.

We are, therefore, face to face with a text which cannot be easily identified. History tells us, too, that the famous Maraba, Nestorian Patriarch of Seleucia (540-551)¹⁰ translated the Old Testament from Greek into Syriac; but besides the improbability of the historical information, our manuscript is of Jacobite origin, and cannot contain a version produced by one of the greatest enemies of

¹⁰ See Ebedjesu's Catalogue in Assemani, *Biblioth. Orient.* III, 1, p. 75; and Amr, in Gismondi's *Maris, Amri et Slibae Commentaria, pars altera*, p. 41.

Monophysitism. Can we then suppose that these short quotations are derived from an early Syriac version now lost, but used by writers whose works have not come down to us? The question is too complicated to be answered either affirmatively or negatively in a categorical manner.

Mrs. Lewis wishes me to record the fact that these fragments of the Syriac Old Testament Pshiṭta occur in the under-script of the palimpsest described by her in No. XI *Studia Sinaitica*, after the whole text of the *Protevangelium Jacobi* and the *Transitus Mariæ* in Syriac, and forty-five leaves of some ancient Qurâns, containing variants; all made use of simply as writing material by the tenth-century scribe of the upper-script; which is a homogeneous collection of extracts from early Christian writers, Greek and Syriac, rendered into Arabic.

These facts are a complete refutation of the wild theory recently advanced by a French scholar, M. Leon, that the old Qurân leaves are a forgery. The manuscript was bought for the sake of the *Protevangelium* and the *Transitus* only; and therefore the supposed forger, *mirabile dictu*, must have received no remuneration for his almost superhuman pains. Moreover, these texts from the O. T. Pshiṭta and the Qurân have waited ten or even eighteen years for their full decipherment, since they were bought by their present owner in 1895.

AN EXPLANATION OF ISAIAH 27. 8

BY SAMUEL DAICHES, Jews' College, London.

ISAIAH 27. 8, **בסאמאח תריבנה חנה ברוחו הקשה ביום קרים**, has been the despair of translators and commentators from the time of the Septuagint till the latest commentary on Isaiah (by G. B. Gray) published in 1912 (in *The International Critical Commentary*). The real meaning of this verse is unknown up to the present day. For a full discussion of its difficulties I must refer to the commentaries. For the various meanings ascribed to **בסאמאח** see also the Hebrew dictionaries (especially the Oxford - Gesenius-Hebrew Lexicon, p. 684, and Eduard König, *Hebräisches und aramäisches Wörterbuch zum Alten Testament*, 1910, p. 297). It is especially the word **בסאמאח** that has withstood all attempts at explanation and is the chief crux of the verse. G. B. Gray (in the commentary just mentioned, p. 456) leaves **בסאמאח** untranslated (see also his notes on p. 457 f.).¹

I should like to propose here an explanation which, I venture to think, will make the whole verse clear.

Let me take the first word (**בסאמאח**) first.

There is in Assyrian a word *sassu*, the meaning of which has been regarded as unknown (see Meissner, *Supple-*

¹ Arnold B. Ehrlich in his note on this verse (in his *Randglossen zur hebräischen Bibel*, vol. IV, Leipzig, 1912, p. 96; see also his *Mikrā ki-Pshutō*, Berlin, 1901, vol. III, pp. 55 f.) says: 'Hier ist der erste Halbvers undeutbar, und alle bisher vorgeschlagenen Emendationen führen zu nichts Annehmbarem.' What he says there about 8 b is also entirely unacceptable.

ment zu den assyrischen Wörterbüchern, p. 73, and Muss-Arnolt, *A Concise Dictionary of the Assyrian language*, p. 773). From an Assyrian divination text, in which this word also occurs, it is clear that *sassu* must be a part of a corn-stalk. The text is contained in K. 2882 and is published in A. Boissier, *Choix de textes relatifs à la divination assyro-babylonienne*, vol. II, fascicule 1, pp. 59 ff. The first eleven lines of the Obverse speak of various trees, of their appearance, and of the consequences therefrom. From Obverse, l. 12, till Reverse, l. 14, the text speaks of what seem to be parts of the corn-stalk and of certain happenings to the field. Thus, for instance, ll. 12-13, read: (12) *šumma ūmi (šam) iṣ-te-en šu-ul-pu II III šu-bu-ul-la-tum* (13) *eḫlu šu-a-tum bēli-šu inadi-šu ugaru šuātu i-ḫar-ru-ub*. 'When one day the stalk² has two or three ears of corn, the field, its owner will leave it; that estate will become waste.' Similar omens are given in the following portion of the text. Now l. 3 of the Reverse reads thus: *šumma ūmi (šam) sa-as-su i-te-bi eḫlu šuātu NI. DUB-šu imaṭṭi(-ṭi)*. 'When one day the *sassu* rises, that field, its produce (?) will diminish.' Boissier leaves *sassu* untranslated. But it is clear from the preceding and following lines that *sassu* must signify a part of the corn-stalk. Furthermore, with the help of the Talmud and Midrash we can determine the exact meaning of *sassu*. In the Talmud and Midrash there occurs the word ססס (or ססס, see *Aruch completum*, vol. VI,

² Boissier leaves *šulpu* untranslated: but it must mean 'the stalk'. The stalk (at any rate the upper part of the stalk) was probably called *šulpu* because it contains the ear of corn which is plucked out from it. Cf. *šalāpu*, 'to draw out, to pull out' (see dictionaries of Delitzsch and Muss-Arnolt, s. v.), also Hebrew and Aramaic שלף 'to draw out, to pluck out'; cf. especially השליף 'to pluck the last growth' (see Jastrow, *Dictionary of the Targumim*, &c., s. v.).

p. 91). In the Babylonian Talmud, Soṭa 5 a, ראש שבלת (Job 24. 24 b ובראש שבלת ימלו) is explained by סאסא דשובלתא. It is clear from this passage that סאסא is the top-part of the corn-stalk. Rashi, *ad loc.*, commenting on סאסא דשובלתא, says: גבהו של שבלת שקורין זקן השבולת והוא נשבר ונופל מאליו: 'the height (the high part) of the ear of corn which is called the beard of the ear of corn, and that breaks and falls off by itself'. Comp. also *Aruch completum*, *loc. cit.* In Ḳoheleth Rabba, s. v. שבתי (ch. 9, ver. 11), we find the following sentence: שהיה רץ על סאסי שיבוליא ואינן משתברין 'who ran on the tops of the ears of corn and they were not broken'. In Talmud, Hūllin 17 b, סאסא occurs alone (without שובלתא) in the meaning of the top of the ear of corn.³

We thus see that in Talmud and Midrash סאסא signifies the awns which rise from the sides of the ear of corn and reach a considerable height above it. The awns are especially high in barley, in which the 'beard' rising above the ear has more than double the height of the ear. Of wheat there are two varieties: one with awns (called 'bearded wheat') and one without awns (called 'beardless wheat'). The beard of the wheat rising above the ear is not so high as that of the barley. Rashi's description of סאסא as 'the beard of the ear of corn' is practically identical with the modern designation of that, the highest, part of the stalk. A simpler designation is 'the top of the ear of corn'.

I have no doubt that the Assyrian *sassu* is identical with the Talmudic and Midrashic סאסא and also signifies

³ The reading of the passage in Echa Rabbati, where סאסא is supposed to occur (see Levy, *Neuhebräisches und chaldäisches Wörterbuch*, vol. III, p. 462, and the printed editions of the Midrash) is doubtful (see *Aruch completum*, vol. VI, p. 31, col. 2, s. v. סס, and S. Buber, *Midrash Echa Rabbati*, Wilna, 1899, p. 78, note 381).

the top of the ear of corn. Line 3 of the Obverse of the Assyrian text quoted above is therefore to be translated: 'When one day *the top of the ear of corn* rises, that field, its produce (?) will diminish'. The corresponding words in the preceding lines (from Obv., l. 12) and in the following lines must clearly also refer to various parts of the corn-stalk.

Now I suggest that in **בסמאח** we have the Hebrew word identical with the Assyrian *sassu* and the Talmudic and Midrashic **סמאח**. **בסמאח** (rather **בסמאח**) is therefore to be translated: 'in the top of its ear of corn'.

בשלחה (or, better, **בשלחה**) I translate 'in its shooting stalk'. We have here the word **שלח** in the meaning of 'sprout, shoot' (comp. Cant. 4. 13, perhaps also Ezek. 31. 5; see the Oxford Hebrew Lexicon, p. 1019). **שלח** can no doubt mean 'a stalk', just as it can mean 'a branch': something that sprouts, that shoots up. Kimhi, *ad loc.*, just mentions the possibility of the connexion of **בשלחה** with **שלחך** in Cant. 4. 13, although he speaks there of 'gardens and fields of corn'.

הנה is generally translated 'he removed' (see already Kimhi, *ad loc.*). It may be that we have here the root **נה** 'to moan, to growl'. 'To moan (or to murmur, to sigh) in (or through, with) his wind' is probably a phrase for 'to sweep over with his wind'. When a strong wind passes, it is as if it would moan or howl. We speak of 'the howling wind'. Instead of saying 'the fierce wind moaned', the prophet says 'He (God) moaned in (or with) his fierce wind'. In Job 37. 2 **הנה** is used for the growling sound of the thunder (**והנה מפיו יצא**); comp. the Oxford Hebrew Lexicon, p. 211. If we take **הנה** to mean 'he moaned, he howled', then it is also clear why there is no object after it (see commentaries).

Now, I suggest, the prophet had the following picture before his eyes: a field full of corn which is swept by a severe east wind. The east wind in Palestine is destructive of vegetation and may carry everything before it. For a description of the disastrous effects of the Palestinian east wind (the *sirocco*) see G. A. Smith, *The Historical Geography of the Holy Land*, pp. 67-9; Driver on Amos 4. 9, and Gray, *l.c.*, p. 458. It is 'withering and burning the growing corn that no animal will touch a blade of it' (see Driver, *l.c.*). Ordinarily, the prophet implies, the whole field would have been devastated. Not a trace of its corn would have been left. Not so in this case. Only the tops of the ears of corn were carried away. Only the shooting stalks were withered. But (we must supplement) everything was not destroyed. The root remained. And out of the root new corn will grow up.

The cornfield, of course, represents Israel. A severe visitation will come over Israel. God will punish it almost mercilessly. But He will not entirely destroy it. While Israel's smiters were destroyed root and branch (ver. 7), Israel will only be destroyed in its branches. Its root will remain. We have this idea very often in Isaiah (comp. especially 6. 13) and in other prophets.

In ch. 27 we have several agricultural pictures. At the beginning Israel is compared with a vineyard. In ver. 6 we have יִצִּיץ וּפָרַח, יִשְׂרָשׁ, and תְּנוּבָה, in ver. 11 יִבֵּשׁ קִצְיָהּ, and in ver. 12 יַחֲבֹט and תִּלְקֹטוּ (in ver. 12 שִׁבְלָתָהּ may also mean 'ear of corn'; see commentaries). We need not therefore be surprised if we have in ver. 8 also an agricultural picture. Once the meaning of בִּסְאֲסָא is established, and consequently also the meaning of בְּשִׁלְחָהּ, the whole sense of the verse becomes perfectly clear. The suffix ה in both

words refers to the field which the prophet has before his eyes and to which Israel is compared.

The verb **ריב** (**תריבנה**) is used because the prophet is aware at the moment of speaking that the field is Israel, and that God contending with Israel punishes it (although God can also have a dispute with a vineyard ; comp. ch. 5).

I therefore translate this verse as follows :

‘In the top of its ear of corn, in its shooting stalk (only) thou contendest with it (and destroyest it, the field); he (God) has growled (swept) with his fierce wind (over the field) on the day of the east wind.’

The larger number of Israel will be swept away. But a remnant will be saved. Ver. 9 gives the reason for the salvation of the remnant. Vers. 10 and 11 practically correspond to ver. 8, and the pictures of these two verses are akin to the picture in ver. 8 (**וכלה סעפיה ביבש קצירה**) (**תשברנה נשים באות מאירות אותה**). In vers. 12-13 the remnants are gathered up.

I believe that the explanation proposed here for Isa. 27. 8 is entirely satisfactory and removes one of the greatest difficulties of the Biblical text.

THE PRESENT POSITION AND THE ORIGINAL FORM OF THE PROPHECY OF ETERNAL PEACE IN ISAIAH 2. 1-5 AND MICAH 4. 1-5

BY ISRAEL FRIEDLAENDER, Jewish Theological Seminary
of America.

THE prophecy of Eternal Peace, which is found in a double recension in Isaiah 2. 1-5 and Micah 4. 1-5, has been the object of a bewildering number of widely differing conjectures.¹ As far as modern Biblical scholars are concerned, agreement among them seems to have been reached only on one point, viz. that in both passages the prophecy stands isolated and has no connexion with the context.² Indeed, one only has carefully to read the verses preceding and following our prophecy in order to realize that both in tone and content they differ completely from it. To be sure, various attempts were made, particularly by the older commentators, to establish a logical connexion between the prophecy and its context, but it is now recognized on all sides that these attempts are nothing but artificial makeshifts.³

Realizing the isolated position of our prophecy in the texts of Isaiah and Micah, we are immediately confronted

¹ A good summary of the various theories will be found in Marti's *Commentary on Isaiah*, p. 27 f., and in J. M. Powis Smith's *International Critical Commentary on Micah*, p. 84.

² Comp. Gray, *International Critical Commentary on Isaiah*, I (1912), p. 48.

³ Comp. especially Kuenen, *Historisch-kritische Einleitung*, II, 36, 38.

by a new difficulty: Which were the motives that prompted the men who were responsible for the collection and arrangement of the prophetic writings, in other words, the compilers or editors of Isaiah and Micah, to insert our prophecy in a context which is entirely foreign to it? As far as the passage in Isaiah is concerned, Kuenen⁴ is inclined to assume that the present arrangement was due to a desire to show the immense contrast between the ideal future depicted in our prophecy and the sordid facts of reality described in the surrounding verses. This view is, in substance, identical with the traditional explanation, repudiated by Kuenen himself, except that the former regards as genuine logical sequence of prophetic thought what Kuenen prefers to consider the result of subsequent editorial arrangement. For the traditional exegesis interprets, in an almost identical manner, our prophecy in Isaiah 2. 1-5 as an intentional contrast to verse 6 ff. Now the arguments advanced by Kuenen against this conventional explanation, viz. the extremely loose and artificial connexion with the context, apply with equal force to his own conjecture. For the discrepancy between our prophecy and the surrounding verses which makes it impossible to assume an *original* connexion between them should also have prevented the *editor* from placing them side by side. Gray, indeed, in his elaborate commentary on Isaiah,⁵ is frank enough to confess that 'the reasons for the particular place given elude us'.

In the following I venture to offer a conjecture which seems to me to explain the difficulty in a more natural and satisfactory manner, and may be found to apply in other cases where, in a similar way, the sudden change of tone

⁴ *loc. cit.*, p. 38.

⁵ *loc. cit.*

in a prophetic discourse appears to suggest other than logical principles of textual arrangement.

It has long been observed that many, if not most, of the prophetic writings (comp. Hosea, Joel, Amos, Micah, Habakkuk, &c.) are marked by a 'happy ending' which frequently stands in obvious contrast to the preceding verses. This observation has led a number of modern critics to deny the authenticity of these concluding passages. But it seems far more natural to assume that the men who collected, or rather selected, the prophetic discourses, and drew on a much larger material than the one preserved in our Bible, abstracted these comforting utterances from a different context, belonging to the same prophet and no more transmitted to us, and placed them deliberately at the end of their prophetic compilations in order to leave the reader in a happy frame of mind. It is exactly the same consideration which is responsible for the Talmudic rule that in those Biblical books in which the concluding verse is of a threatening or derogatory character—in Isaiah, Malachi, Lamentations, and Ecclesiastes—one of the preceding verses of a consoling nature be repeated.

Now it seems to me that the same psychological motive which called for a 'happy ending' also demanded a 'happy beginning' for the prophetic collections. Most prophetic discourses—this is entirely in accord with the character of the true prophet who is always more readily inclined to prophesy evil than good⁶—were violent arraignments of the sinfulness of the generation, and predictions of dire punishment for such sinfulness. They were read, in the final shape which they received in the time of the post-exilic community, by a people which had exchanged their

⁶ Comp. 1 Kings 22. 8.

heart of stone for a heart of flesh, and having received, at the Lord's hand, double for all its sins, lent a willing ear to the word of God. The prophetic denunciations, originally hurled against their rebellious forefathers, were entirely unjustified in their own case, and could only have the effect of discouraging those who both needed and deserved the encouragement of prophecy. Hence the compilers of that later generation found it necessary to place the comforting utterances of the prophets—and such utterances could be selected in abundance from the writings of every prophet now lost to us—at the *beginning* of the prophetic collections in order, as it were, to take off the edge of the denunciations that were to follow.

A striking example of this editorial tendency is found in the book of Hosea. Chapter 1 is in the nature of a biographical introduction, undoubtedly from the pen of the editor. Chapter 2 marks the beginning of the prophetic discourses. It was long ago suggested⁷ that the prophecy contained in this chapter, which represents a fierce arraignment of faithless Israel, actually begins with verse 4, and that the preceding three verses which paint in glowing colours the future happiness of that very same Israel, originally belonged to the *end* of the discourse, a sequence which is still reflected in a quotation of the New Testament.⁸ The reason for this intentional misplacement seems obvious. It was to counteract the painful impression which the violent denunciation of the prophet was bound to produce on the mind of the hearer, or rather reader, of the prophetic discourse.

A similar motive seems to have actuated the editor or compiler of the initial chapters of Jeremiah. Chapter 1 is

⁷ See Kuenen, *Einleitung*, II, 19.

⁸ Romans 9. 25-6.

again of an introductory character. The prophetic discourses begin with chapter 2. Here, too, it is evident that verse 4 inaugurates the prophecy which is a violent attack upon Judah. The keynote is struck by the question in verse 5: 'What iniquity have your fathers found in me that they are gone far from me, and have walked after vanity, and have become vain?' The first three verses of the chapter, whose sublime tenderness strangely contrasts with the intense bitterness of what immediately follows, have been deliberately placed at the head of the collection for the purpose of soothing the reader and reconciling him to the prophetic denunciation which might otherwise have a disheartening effect on him.

To return to the subject of our discussion, it is generally recognized⁹ that the second chapter of Isaiah, which is separated from the preceding chapter by a superscription of its own, marks the beginning of an older collection of the prophet's discourses. The natural beginning of the violent attack upon Judah's life and morals which runs through chapters 2 and 3 is 2. 6. As the initial word of the latter verse indicates (כִּי 'because'; the translation 'but' is a makeshift), the opening of this denunciatory prophecy is fragmentary, and was, in all likelihood, removed from its original context. The preceding verses (2. 1-5), which are of a diametrically opposite character, had originally no connexion whatsoever with the prophecy introduced in verse 6. But they were assigned this place, at the beginning of the collection, in order to put the reader in a hopeful frame of mind, and to fortify him against the prophetic attack in the following verses.

⁹ Comp. Kuenen, *Einleitung*, II, 147. Duhm, *Commentary on Isaiah*, p. viii, suggests that chapters 2-4 formed originally a separate collection.

Of course, the explanation just set forth, even assuming its correctness in the three instances quoted, need not apply in all cases. It is possible, and even highly probable, that other tendencies and principles, besides the one suggested above, were operative in the arrangement of the prophetic writings. For once it does not seem to apply in the case of Micah 4. 1-5, where our prophecy is duplicated. Indeed, it has been conjectured¹⁰ that in the latter passage the position of our prophecy may be due to a 'catch-word arrangement', the phrase 'Mountain of the House' in 3. 12 having suggested the sequence of our own prophecy, in which the 'Mountain of the House of the Lord' (4. 1) occupies a central place. The conjecture is plausible, although, when taken by itself, it presupposes a principle of arrangement which is too mechanical. But it gains considerable strength when taken in conjunction with another more internal motive. As a matter of fact, it is highly probable that in the Micah text, too, the position of our prophecy is, to quote Wellhausen's phrase,¹¹ due to a desire 'of putting a plaster on the wound inflicted by 3. 12'. On the other hand, it may be possible that also in Isaiah the arrangement has been prompted, in addition to the motive set forth above, by the same catch-word, since the 'House of Jacob' is referred to both in verse 5 (on which see anon) and in verse 6. In any event, the tendency of editorial arrangement advocated above ought to be borne in mind whenever a prophetic text reveals a sudden change of tone which cannot, unless sophistical arguments be resorted to, be explained on logical grounds.

¹⁰ Gray, *Isaiah*, I, 48.

¹¹ Wellhausen, *Die kleinen Propheten*, 3rd edition, p. 143.

For this change of tone may represent the border-line between two originally independent collections.

In connexion with the above a word may be added about the relation of the recension of Isaiah (2. 1-5) to that of Micah (4. 1-5). In this place we are not concerned with the question of authorship which, as may be gauged from the mass of contradictory theories advanced by modern scholars, is not yet ripe for solution. But this much seems certain and is generally agreed upon: that the text of Micah represents a fuller recension of the prophecy than that of Isaiah. Whether Micah 4. 4 ('But they shall sit every man under his vine and under his fig tree; and none shall make them afraid: for the mouth of the Lord of hosts hath spoken it') is from the same pen as the rest of the prophecy or not—with Kuenen¹² and Marti¹³ I emphatically believe that it is—it certainly represents a *plus*, and it seems most natural to assume that it has been either intentionally dropped or, what is more probable, accidentally lost in Isaiah. In other words, the texts in Micah and Isaiah are two copies of the same original, with the deviations that are customary in such copies.

Again, verse 5 in Micah ('For all people walk every one in the name of his god, and we will walk in the name of the Lord our God for ever and ever') is recognized on all sides to correspond to verse 5 in Isaiah ('O house of Jacob, come ye, and let us walk in the light of the Lord'), and while some scholars regard the verse in Micah as an expansion of the one in Isaiah (Cheyne), others, conversely, hold that the verse in Isaiah is an abbreviation of that in Micah (Marti).¹⁴ But after what has been said concerning

¹² *Einleitung*, II, 35.

¹³ *Commentary on Isaiah*, p. 26.

¹⁴ Comp. Gray, *loc. cit.* 'Micah asserts what Isaiah exhorts to' (*ibid.*).

the relationship of the two texts, their undoubted similarity of content suggests a more natural solution. The two verses do not, as is generally supposed, *substitute* one another; they rather *supplement* one another. Micah 4. 5 is a *continuation* of Isaiah 2. 5. The two verses represent the two halves of a common fuller recension which has been fragmentarily reproduced in each of the two texts.

The passage thus reconstructed is made up of the following verses: Isaiah 2. 1-4 (duplicated, apart from the superscription, in Micah 4. 1-3) + Micah 4. 4 + Isaiah 2. 5 + Micah 4. 5. After the glowing description of the ideal *future*, when the nations will flow into the mountain of the Lord, and, having been taught of His ways, will beat their swords into plowshares, and when Israel, too, in happy contrast to the war-ridden times of the prophet, will enjoy perfect peace under his vine and his fig tree, follows an admonition for the *present*, calling upon the Jewish people to act in a manner deserving of so glorious a future. 'O house of Jacob, come ye, and let us walk in the light of the Lord (as *all* nations will do in the future).' 'For all people walk (at present) every one in the name of his god (i. e. all the nations are loyal to their gods, although they are "no-gods"; compare Jeremiah 2. 11), and we will (i. e. how much more should we; '*anaḥnu*' is emphatic) walk in the name of the Lord our God for ever and ever.'

The question as to whether the last two verses are from the same hand as the prophecy itself does not affect the above argument, which is merely concerned with the re-

'What is here [Micah 4. 5] as a firm decision is found in Isaiah 2. 5 as an exhortation' (*International Critical Commentary on Micah*, p. 88). Compare, on the other hand, Duhm, *Commentary on Isaiah*, p. 15: Isaiah 2. 5 was written by a reader who was 'guided' by Micah 4. 5.

construction of the original form of the *text*. To be sure, some of the modern commentators have answered that question in a very definite manner. But where the evidence is so meagre, certainty, or even probability, is not to be expected. Biblical science, with its bewildering divergence of opinion, even where the authorship and date of entire books is involved, has not yet reached the stage, if it ever will, of being able to indicate, with more than self-complacent arbitrariness, the origin of individual verses.

JESUS AND THE SADDUCEAN PRIESTS:

LUKE 10. 25-37

BY JACOB MANN, Jews' College, London.

THE 'noble' priests, the so-called ἀρχιερεῖς (mentioned in the Talmud as בני כהנים גדולים, Ketubboth 13. 1-2, Ohalot 17. 5, comp. Schuerer, II⁴, 276), were greatly opposed to Jesus and took a prominent part in his trial. This is the account given by all the Synoptics (Mark 11. 18, 28; 14. 1, 10, 53, 55; 15. 10, 11, and so in Matthew and in Luke). This being the case, it is remarkable that the priests as a class are very seldom mentioned in the sayings attributed to Jesus. It would appear from the Gospel-narrative that Jesus, with all his pronounced opposition against the Pharisees, never found it necessary to denounce the priests. And yet the ill-repute of the aristocratic priesthood of the period in which Jesus lived and acted is well-known. This problem led several scholars to various conclusions. To take two extreme and opposite views, on one hand Dr. Büchler in his book *Die Priester und der Cultus*, deeply impressed in his survey of the activities of the noble priests by the reports of their rapacity and evil practices, came to the conclusion that all the woes in Matthew, ch. 23, as well as the other attacks elsewhere, were really directed against these 'noble' priests. Dr. Büchler in his argument goes even so far as to suggest that originally the text of Matthew read כהניא ספריא and was in later times altered to פרישיא ספריא; 'hypocrites',

הַנְּפִיָּא, being the proper term applied to those priests (pp. 79-88). Against this assumption it has rightly been pointed out by Epstein (*Monatsschrift*, XL, 138-44) that, as regards Matthew, ch. 23, the priests did neither sit on Moses' throne (vers. 2-4) nor did they aspire to be called Rabbi (vers. 7-10), nor did they give tithes (ver. 23). If we force ourselves to explain that they exacted tithes from mint, anise, and cummin, we would not call them hypocrites but rapacious and extortionate.

On the other hand, Leszynsky (*Die Sadducäer*, Berlin, 1912, p. 297) takes the opposite view that Jesus had Sadducean leanings, and therefore he refrained from attacking the priests, who to a great extent belonged to the party of the Sadducees. Both these views are too extreme to be convincing. Especially Leszynsky's view that Jesus did not attack the priests at all is untenable. What about the great charge in the story of the Good Samaritan (Luke 10. 25-37)? But this whole passage is generally entirely misunderstood. As we shall see, it contains a most scathing attack on both priest and Levite in general, in so far as they shared the views of the Sadducees on a question of principle concerning the so-called Levitical purity. Jesus addressed a lawyer (νομικός, 10. 25), and therefore the Gospel-commentators have generally taken this lawyer to have been a scribe of the Pharisees.¹ It is however clear that the indictment could not have been directed against the Pharisees. In order to render the Parable of the Good Samaritan more likely

¹ Also Halévy in dealing with the Parable of the Good Samaritan (*R.E.J.*, IV, 1882, 249-55) adheres to the view that the lawyer was a Pharisee. —His suggestion to substitute in the parable 'Israelite' for 'Samaritan', as being parallel to priest and Levite (p. 253), has no bearing on the point at issue in this article.

to have been taken from actual life, we must reject the usual explanation that it was simply due to heartlessness on the part of both the priest and the Levite in giving no succour to the victim of the robbers. It is somewhat against human nature to pass by a man lying in a helpless state on the high road without even coming near him. Both the priest and the Levite mentioned in the story must have had some reason for acting in the way they did. According to my opinion, this was due to the requirements of Levitical purity. The robbers left their victim 'half dead' (*ἡμιθανή*, 10. 30), having probably fallen into a swoon. To a pedestrian coming from a distance it appeared as if a corpse was lying in the road. Both a priest and a Levite, when passing by, would then avoid coming near the supposed dead body lest they become defiled; the former by reason of the Biblical prohibition (Lev. 21. 1), the latter because he had to do service in the Temple and had to keep himself Levitically pure.

Now, just the Pharisees laid great emphasis on the so-called duty of *מת מצוה*, making it obligatory even on a high priest to contract Levitical impurity and bury a dead body lying on the highway with nobody to take care of it. The Rabbis ascribed the origin of this duty of *מת מצוה* to Joshua the son of Nun (B. *ḥamma* 80 b bottom, 'Erubin 16 a); obviously in order to enhance its importance. But there is no reason for maintaining that this custom amongst the Pharisees does not go back to comparatively early times.² In Nazir 7. 1 we find a

² Possibly Josephus refers to this duty of *מת מצוה* when writing in *Contr. Ap.*, II, 29, § 211, that 'there are other things which our legislator ordained for us beforehand, which of necessity we ought to do in common to all men, as to afford fire, and water, and food to such as want it; to show them the roads; nor to let any one lie unburied'.

theoretical case similar to that mentioned in Luke. 'If a high-priest and a Nazirite journey together and find a dead body lying in the road' (היו מהלכין בדרך ומצאו מת מצוה), R. Elieser b. Hyrkanos disputes with the contemporary scholars as to which of the two should bury the dead person, in order to prevent that both high-priest and Nazirite should become Levitically impure while the work could be done by one of them. But it was a matter of course that if either a high-priest or a Nazirite alone were to find a corpse lying in the road, he was bound to contract Levitical impurity and perform the burial. The expression מת מצוה seems to have been a standard phrase familiar to everybody. An anonymous Baraitha defines it to the effect that 'as long as there are no other people to look after the burial of the corpse' (כל שאין לו קוברין), the duty is incumbent on the first Jew that passes by, without any exception, to perform the burial (Nazir 43 b, Yerushalmi Nazir 56 a, top and parallels).

This demand which the Pharisees made on both priest and Nazirite to defile themselves for such a מת מצוה was clearly against the literal wording of Lev. 21. 1 ff., 11 ff., Num. 6. 7. The Rabbis tried hard to deduce מת מצוה from the Bible with the help of their method of hermeneutics (cp. Sifra to Lev. 21. 1, Nazir 47 b, 48 a-b, Zebahim 100 a and parallels). As is well known, the laws handed down by tradition were attacked by the Sadducees on the ground that many of them had no foundation in the Biblical laws. To meet these objections and to uphold the tradition, successive generations of scribes and Rabbis brought to perfection a system of hermeneutics intended to find in the Bible some indications of the traditional laws. It must be admitted that in the case of מת מצוה the hermeneutic

deductions did not bring the Rabbis very far. They merely maintained as granted that when the Bible laid down the rule, for example, that a high-priest should not defile himself at the burial of even his nearest relations, 'neither for his father nor for his mother' (Lev. 21. 11), it excluded *מת מצוה*. Obviously the Sadducees rejected such a deduction. They would adhere to the clear wording of the Biblical law. No exception was to be made in the case of *מת מצוה*. A Sadducean priest then, when passing a dead body, would have certainly avoided coming near it, and detecting a man lying unconscious in the road, as in the parable of Luke, would have passed on for fear of defilement. Against such a practice Jesus directed his attack. There need be no hesitation in simply taking this *νομικός* to have been a Sadducean lawyer. It is known that the Sadduceans had a 'code of impositions' (*ספר גזירות*, Megillat Taanit, ch. 10) and that they were as a rule strict judges (Jos., *Ant.* XX, 9, 1, § 199), so that there existed among them lawyers.

The above explanation of Luke 10. 25-37 becomes the more plausible, when we consider the textual state of our passage. Luke 10. 1-37 breaks the sequence of the narrative. Jesus was on his way to Jerusalem, and there are stories of the journey in 9. 51 ff., 57 ff. In 10. 38 there follows another incident of the journey. Within these stories there are inserted the account of the seventy apostles, their mission and return (10. 1-25), and the parable of the Good Samaritan (vers. 25-37) which begins, 'And behold a certain lawyer (*νομικός*) stood up, and tempted him'. It is evident that there is neither any connexion with the preceding nor with the story that follows. Now vers. 25-8 have their parallels both in Mark 12. 28 ff. and in Matt. 22. 34 ff. in their proper sequence. The

occasion was when in Jerusalem the Sadducees disputed with Jesus about the resurrection (Mark 12. 18-28, Matt. 22. 23 ff., Luke 20. 27-40). The Pharisees were pleased with Jesus, so that it is rather difficult to understand why one of the Pharisees, a lawyer,³ as Matt. 22. 35 reports, should have stood up and tempted Jesus. Mark (12. 28) indeed felt the difficulty, and therefore makes the scribe not tempting Jesus, but rather being pleased with him (ver. 32 ff.). But Luke (10. 35) has also 'tempting him' and thus agrees with Matthew. According to my opinion, the common tradition of Matthew and Luke is authentic.⁴ This lawyer was a Sadducee, and even in the wording of Matthew, ἐξ αὐτῶν νομικὸς πειράζων αὐτόν, could refer to the nearest noun, i.e. τοὺς Σαδδουκαίους (ver. 34). Accordingly, Matt. 22. 35-40 is quite parallel to Luke 10. 25-8; the Sadducees having been refuted, one of their lawyers continues the issue with Jesus. Thereupon follows the second question, 'Who is my neighbour?' and Jesus concludes with the serious indictment against Sadducees contained in the parable of the Good Samaritan (Luke 10. 29-37), a detail reported only by Luke. That the Pharisees could not have been meant in this parable has been shown above.⁵

³ Cureton reads 𐤀𐤍𐤔𐤁 a scribe, but omitted by Syrsin.

⁴ Comp. also Resch, *Ausserkanonische Paralleltexte zu den Evangelien*, III, p. 120 (in Gebhardt u. Harnack, *Texte u. Untersuchungen*, vol. 10, Leipzig, 1893-4). Luke 10. 25-8, Mark 12. 28-34, Matt. 22. 34-40 are three variants of one and the same pre-canonic Q (=Quellentext), the beginning of which is preserved best in Luke 10. 25 a.

⁵ Cf. a similar story in Qohel. R., 11. 1, of a noble Roman who was once shipwrecked and washed to the Palestinian shore, where just a scribe, Eleazar b. Shammua, took care of him, dressed and fed him, and sent him away on his journey. See further the stories of Nehemiah the cave-digger (אִישׁ שִׁיחִין), Nahum of Gimzo (Yerushalmi Pea 21 b) and Abba Tahna the pious (Qohel. R., ch. 9).

As for the details of the Parable, the question whether the road from Jerusalem to Jericho was dangerous in those times cannot be decided by Jerome's account of the state of things in his own times. But the detail of the priest passing along that way to Jericho is in accordance with the local conditions. From Taanit 27 a we learn that Jericho was largely inhabited by priests (see further, Dr. Büchler, *Priester und Cultus*, 161-81). That Jericho and its neighbourhood had sycamore-trees (Luke 19. 4) is also corroborated by Pesahim 4. 9, where we are told that the people of Jericho used to engraft their sycamore-trees during the whole eve of the Passover, even in the time of the day when in Jerusalem the Passover lambs were just sacrificed in the Temple.

There is another saying of Jesus reported by the Synoptics which was perhaps also directed against the priests. Jesus' remark on seeing the poor woman throwing her trifle into the treasury (γαζοφυλάκιον, Mark 12. 41-4, Luke 21. 1-4) seems to have been a rejoinder to those priests who despised the insignificant gifts of the poor to the temple and their scant offerings amounting to a pigeon or a meal-offering (מנחה). There are some interesting Rabbinic parallels which place the reported sayings of Jesus in its proper light. Commenting on Lev. 2. 1, R. Isaac says, 'Why is the word "soul" (נפש) mentioned in connexion with a meal-offering? Who brings such a sacrifice? A poor man. I (i. e. God) account it to him as if he sacrificed his soul before Me', כאלו הקריב נפשו לפני, Yalkut to Lev. 2. 1, § 447 in the name of a Midrash. Likewise in Lev. R., ch. 3, we have an anonymous story concerning a woman who once brought as a sacrifice a handful of flour. Whereupon the priest abused her, saying,

‘Look what these women offer up! What remains there for eating and what for sacrificing?’ The following night this priest had a vision in a dream, enjoining him not to despise such an offering, because it is regarded as if the woman had offered up her life. This story might have been an old Agada and closely resembles the incident reported in the Synoptic Gospels.

STRACK'S 'ABOTH'

Ausgewählte Mišnatraktate nach Handschriften und alten Drucken. Veröffentlicht, übersetzt und mit Berücksichtigung des Neuen Testaments erläutert. Herausgegeben von HERMANN L. STRACK. *Pirge Aboth: Die Sprüche der Väter.* Vierte ganz neubearbeitete Auflage. Mit Vokabular und drei Registern. Leipzig: J. C. HINRICHS, 1915. pp. 40 + 44.

A CRITICAL edition of the Mishna is a desideratum which will probably not be supplied for a long time. The 'Gesellschaft zur Förderung der Wissenschaft des Judentums' has announced for some time a great edition of the Mishna which, we hope, will include the whole manuscript material, but we have not heard yet what principles will be followed for the establishment of the text. Before a series of preliminary investigations has been successfully carried through dealing with the relations of the more important manuscripts towards one another, and determining which belong to the Palestinian and Babylonian rescension respectively on the basis of the readings underlying the Talmudic discussions, it will not be possible to establish sound principles to guide us in this difficult undertaking.

Among the treatises of the Mishna that of Abot, the most popular and best known, has an exceptional position since it was incorporated into the prayer-book at an early period, and has accordingly been transmitted to us, outside the Mishna manuscripts, in numerous rituals of all the different countries. In these a sixth chapter has been added to the treatise (according to Friedmann, *Pseudo-Seder Eliahu zuta*, Vienna, 1904, p. 19, from Maseket Kalla, ed. Coronel, Vienna, 1864, pp. 13 b-14 b). and in some cases considerable additions have been incorporated into this new chapter later on; thus Taylor in his Appendix

to the *Sayings of the Jewish Fathers* (Cambridge, 1900) mentions three Yemen prayer-books [p. 44, MS. Bodl. 1145, p. 116, Brit. Museum 714 (see Cat. Margoliouth, II, p. 416, and *JQR.*, XVII, pp. 700-703, where the sixth chapter is published in full according to this MS. by Margoliouth), p. 112, Berlin 89 (Strack's J¹)] offering a string of sentences, beginning with אשרי between VI, 6 and 7; others again split off the last sentences of chapter V and, increasing them by a few more additions, form out of them an extra chapter, so that their treatise consists of seven chapters [see Taylor, p. 7, Brit. Museum 694 and Paris 636, pp. 42-4, Bodl. 1135, 1137, 1139, and 1142, p. 62, Cambridge. This form Meiri at the end of his commentary mentions as common].

If a classification of the manuscripts be undertaken we find that we have no means of applying to Abot the first criterion used in determining texts of other treatises of the Mishna, viz. whether they belong to the Palestinian or the Babylonian version. The Palestinian Talmud does not contain Abot in its editions and manuscripts, and while the Munich MS. and the first Bomberg edition of the Babli include a text of it, we cannot without serious investigation take this as representing the Babylonian version. A quotation, like the one in Yoma 21 a, where two of the wonders which happened in the sanctuary are omitted from V, 4, and expressly quoted as additional wonders from a Baraita, justifies us in becoming very sceptical in that respect; for MS. Munich has one of the two in the text of Abot, the *editio princeps* both, while we can see that in this case the Babylonian recension must have included neither. Of course this is a solitary instance, but it shows that the question is not so clear as Strack and others believe.

On the other hand the old commentators, who, by the way, mostly limit their works to the original five chapters, yield a rich harvest for the criticism of the text, and by their references to the prayer-books of the different countries give us a valuable hint for the classification. We shall have, in the first place, to determine whether we cannot discover a Spanish, a French, a Provençal, a Yemen type, &c. Probably in later times all the differences

were more and more obliterated through interchange from one country to the other, but the oldest manuscripts ought to give us useful indications in this respect. How little attention has been paid to this point up to now may be gathered from the fact that Taylor, as a rule, does not indicate the rite of the prayer-books containing the text in his catalogue of the Abot manuscripts. Besides the help the old commentators afford for classifying the manuscripts they also add greatly to the list of *variae lectiones*. Readings recorded by authorities of the twelfth to fourteenth century as going back to old and good copies after all are much weightier than many a later ritual, and it would be interesting to examine the readings of the copies of great scholars like R. Gershon or R. Ephraim found in Uceda's very valuable collection, *מדרש שמואל*. Great value was attributed to copies of the Mishna from Palestine, and such are quoted, e.g. by R. Isaac ben Solomon Israeli, Joseph ibn Nachmias, Simon Duran, and Yom Tob Lipman Heller, in their interpretations of Abot, while the Rashi commentary has a reading which it calls Tiberian. It is perhaps not out of place to collect these as a specimen in a note.¹ Only part of them we meet among Strack's variants.

¹ R. Isaac ben Solomon, the grandson of the commentator R. Israel Israeli, mentions several times an old vocalized Mishna MS. in his possession which was written in Jerusalem (*שתי סדרי משנה ישנים מדוייקים*) (ומנוקדים שנכתבו בירושלם). The passages are quoted in S. Sachs's unfinished lengthy description of Cod. Guenzburg 2, and in Taylor's Notes. The latter speaks of two manuscripts (p. 147), his manuscript evidently reading *שנים* for *ישנים*; p. 139 it actually has *ב'*. The readings of this manuscript are:

II, 1, *תפארת לעושה ותפארת*. R. Israel, his descendant relates, found a reading without *ו* in an old manuscript reputed to be from Jerusalem.

III, 2b, the gloss at the end, of which Rashi said it was not found in the Mishna MSS., although people generally recite it, was added by a later hand on the margin. He adds that all the Spanish MSS. have it.

III, 6, *ומנין* for *מנין*.

Ibid., Ps. 82. 1 is quoted after *שלשה*; Amos 9. 6 after *חמשה* as Maimonides has it.

III, 11, the reading *והמאדם*, confirmed by Rashbam, is found on the margin of the codex.

A great many of these readings are incorporated in Taylor's 'Notes on the text' at the end of the Appendix. A systematic examination, however, has not yet been undertaken. Thus the

Ibid., like Rashbam it does not read תורה before מעשים טובים.

II, 4 a is not repeated before IV, 14.

IV, 19, it has only the two Biblical verses without any addition. R. Joseph ibn Nachmias, פירוש פרקי אבות, ed. Bamberger, Paks, 1907, quotes his Palestinian Mishna-Codex ירושלמיות.

I, 4, וכצמא (so in his name Uceda ad 1; the edition wrongly בצומאה, for which the editor conjectures בצומאה!).

II, 4 a, עשה רצונו ברצונך . . . כדי שיעשה רצונך ברצונו (the edition is again to be corrected according to Uceda).

II, 7, רוון [like Aruk and, according to Duran, Maimonides, French texts and 'our' Mishna MSS.].

II, 14 omits דע (before מה שתשיב) and שישלם לך שבר פעולתך.

III, 11, המלבין for המאדם.

III, 13b, it adds מעשרות סייג לתורה. [This reading occurs in a Responsum of the early Gaon Jehudai, *Responsa*, ed. Lyck, 19 b bottom, and was known to the Aruk (s.v. סג, Kohut, VI, 14)].

IV, 5b, לאכול מהם for לחפור.

IV, 17, מכל חיי העולם הבא for בחיי העולם.

V, 21 is omitted.

Simon Duran, Magen Abot, Leipzig, 1855, p. 86 a, consulted an old vocalized Palestinian Mishna MS. (משניות ישנות שבאו מא"י שהם מנוקדות), which read in V, 10 שלי ושלך חסיד שלי רשע.

R. Yom Tob Lipman Heller, תוספות יום טוב, on I, 5 tells us that he had a Palestinian MS. containing, besides Abot, the first, fifth, and sixth order of the Mishna. Its readings are:

I, 5, כל המרבה שיחה.

II, 14 it omits שישלם לך שבר פעולתך.

IV, 2 it omits כבחמורה (נמחק).

IV, 5 a it omits לינימור (נמחק).

IV, 10, ממעט עסק.

The Tiberian Mishna (מישנה טיברנית) mentioned in the Rashi commentary omits the Biblical verse at the end of I (which in the Palestinian Talmud, Taanit IV, 2, 68a bottom, is added by the Amora R. Mana). A Tiberian Mishna with vowels is also mentioned for Nedarim by the anonymous commentator quoted as פירוש in Shiṭṭa Meḳubbeṣet ed. Zomber (e.g. 9c, 16b, 74d).

task of preparing a critical edition of our treatise is a very complicated one, and it naturally cannot be solved incidentally with the preparation of a text-book as Strack puts before us. Still his edition comes much nearer offering a critical text than any of its predecessors, and therefore these considerations of the larger task are not out of place in a review of the new edition of Strack's little book.

When the editor, in 1882, for the first time approached the task of putting before the student who wishes to be introduced to the study of Rabbinical literature a corrected text of this interesting and important treatise, he only published the text of the common prayer-book in a carefully revised form. It is curious to find this text recommended in 1913 in Charles's *Pseudepigrapha*, p. 690, with the statement that it could hardly be improved; only the authorities for the text and the various readings are missed by the new translator. Yet that want had been supplied by the indefatigable editor in the second edition, 1888, which is based on seven manuscripts and the *editio princeps* of the Mishna. In 1901 a third edition appeared, again improved in many points. The present edition is an entirely new book. It is not only that the number of manuscripts has been increased by three; but they include the famous Mishna manuscripts of De Rossi and the late Prof. Kaufmann, together with MS. Cambridge, the most important codices of the Mishna which have come down to us. Krauss has shown in a very valuable study in *MGWJ.*, 1907, that Codex Kaufmann with MS. Cambridge and the Mishna text in the first edition of the Yerushalmi form a family by themselves; MS. De Rossi probably belongs to the same group. Strack having examined the three most important and best manuscripts of the Mishna is able to reach a much better critical principle than was possible with the material at his disposal for his former editions. He accepts the readings of these three capital manuscripts into his text wherever they agree. His text is accordingly more uniform, presenting a distinct type, whether it be Palestinian or not, and at every instance it is evident how carefully he has reconsidered each reading.

If anything is still left to be desired, it is that the fifth edition should considerably increase the variants under the text. In the first place all the readings of the above-mentioned three manuscripts ought to be given in full. Strack nowhere expresses himself about the principles he follows in adding or rejecting the readings not included in the text. As a matter of fact I was disappointed when I found that of the readings enumerated by Kaufmann, *MGWJ.*, 1897, pp. 43-6, as agreeing with the corrections of R. Joseph Ashkenas, several are not recorded in Strack's apparatus. We miss, e.g., the gloss כשהוא נדה in I, 5, the authenticity of which was the subject of much discussion by the early commentators; see Schechter, *Aboth de Rabbi Nathan*, pp. xviii-xx. I, 16 the manuscript reads עומדות with ע; II, 2 נוררת for לנרר; II, 4 ב הלל ר' ; II, 7 it omits חכמה and צדקה, and has דאנה for דאנה (as R. Nathan had; see Aruch s. v. דו, ed. Kohut, III, 29), &c. From a collation of Codex De Rossi which Dr. Schechter made many years ago, and which he kindly put at my disposal, we learn that this manuscript also in I, 5 reads באשתו נדה אמרו (it continues חכמים, omitting six words by homoioteleuton); I, 7, it reads ואל תהי חבר; I, 8 בארכי, &c. In the second chapter it omits 4 a, inserting it between IV, 13 and 14, while many other texts have it in both places. About the variants of these most important manuscripts one would like to have very full information, but characteristic additions of other manuscripts ought not to be passed over entirely as is done with the אשרי sentences following in J¹ after VI, 6 at the end of the gloss recorded, p. 28*, note p, according to Taylor (l. c. 113; see above). In I, 3 the same manuscript according to M. Cahn, *Pirke Aboth*, I, p. 13, reads מורה שם שמים. It would only increase the size of the volume by a couple of pages if all the variants collected in Taylor's Appendix should be incorporated; their number is not very considerable, and their addition would put before our eyes at a glance all the accessible material and save the trouble of consulting so many sources at every step.

Taylor's variants include the readings recorded by the old commentators who devote considerable space to the discussion of

textual questions, often mentioning the sources of their readings. The apparatus would greatly gain by this addition. Thus, to select a few examples at random, it is interesting that the addition of the title Rabbi to the names of the pupils of R. Johanan b. Zakkai in II, 8, found only in N, was objected to by Duran, that the addition *אבל לא על פי המעשה* at the end of II, 15 has in its favour the authority of Maimonides and Meir Abulafia, that in IV, 19 Rashi, R. Jonah, and Meiri read the addition *מלמד שמוחלין לו כל עונותיו*, which also occurs in an incunabulum of the Spanish prayer-book in the library of the New York Seminary, that in V, 5 R. Samuel ben Meir and R. Jonah read *כשעולין* for *שאלין*, that the reading *ארבעה קנינים* in VI, 10 is supported by Rashi (see Epstein, *החוקר*, I, 92 seq.).

Full references to the parallels in *Abot de Rabbi Nathan*, which are so indispensable for the higher criticism of Abot, as well as for the text, would also be a welcome improvement for the next edition.

Of course all these desiderata would enhance the value of the book for the scholar more than for the student and beginner in Rabbinics. But Strack's edition, as it is, is indispensable to the specialist, and will probably remain so for some time, as it contains material not accessible anywhere else. I therefore venture to suggest that in the next edition, which we hope will appear in the near future, the editor will enlarge the scope of his book in these directions in the interest of the specialist, and thus will lay new claims to our indebtedness to him.

Strack has added a too literal translation to the fourth edition, which is accompanied by short notes containing brief statements about the authorities occurring in the treatise, explanations, references to the New Testament, &c. giving a great deal of information in very brief space.

The short introduction preceding the text discusses the contents of the treatise, its redaction as well as the material used for the text, and adds a fairly full bibliography. Among the commentaries there is an omission of the oldest, the one ascribed to Rashi, and printed from varying manuscripts, Trino (not Turin,

as Taylor, *l.c.*, p. 11 end, has it), 1525, under the name of David Kimhi, Mantua, 1560, Salonica, 1565, and, together with the commentary of R. Jonah, which is not mentioned either, Altona, 1848. The great Wilna edition of the Mishna, including Adeni's very important commentary and a useful collection of quotations and parallels in the Talmudic and Midrashic literature, as well as *variae lectiones*, is easier of access and more to be recommended than the Mishna-editions enumerated, p. 6*. Maimonides's Arabic commentary has been published with the text of the Mishna according to the Berlin MS. (Strack's A) by Baneth, Berlin, 1905; see also Baneth's corrections of the Hebrew translation in *Festschrift Lewy*, Breslau, 1911. It is curious that the *editio princeps* of Abot, which appeared separately (with Maimonides's commentary), Soncino, 1484, is nowhere mentioned in the book. In Charles's *Pseudepigrapha* we read indeed, p. 690: 'Apart from the editions of the Mishna and of the whole Talmud, there is, so far as I know, no *editio princeps* of Abot!' Before it was included into the Naples Mishna Abot appeared again in the first Roman Machzor in the next year, and then in some early prayer-books like the German of c. 1490 found in the British Museum and the New York Seminary, and in the Spanish ritual mentioned above.

MS. L is not copied from the printed text of מילי ראבות, Constantinople, 1578-9; among a dozen readings in the first chapter recorded by Strack only those in notes n, x, y agree with that edition. Since, however, that commentary was finished in Lisbon in 1470, the note in MS. L may refer to a manuscript copy of the מילי ראבות from which the text was copied. The text in Bacher's edition of Ibn Aḳnin's commentary might have been used for the edition, since it is based on a manuscript. Of the commentary in Machsor Vitry Berliner has published a reprint, Frankfurt a. M., 1897. As to the liturgical use of Abot, instead of the indiscriminate mention of a few authorities, p. 4* note, a reference to Zunz, *Ritus*, pp. 85-6 would be more in place; otherwise only the oldest author, Sar Shalom Gaon (middle of the ninth century) quoted in Amram Gaon's *Siddur*, and the custom

of the old Babylonian synagogue (בית רבינו שבבבל) recorded by him deserves mention.

Strack's *Ausgewählte Mišnatraktate*, six in number up to now, can be very warmly recommended. With their carefully revised and vocalized text, their good glossaries and notes, and their literal translations, they are the best means at the present time for introducing the beginner to the reading of Neo-Hebrew texts, offering, as they do, all the necessary help for a sound philological interpretation. The price of the modest little volumes is so low that they can be recommended even to those not very familiar with the German language used in notes and glossary, since nowhere else can they find equally reliable and correctly vocalized texts. Of course there are serious problems of higher criticism of the Mishna dealing with its structure and growth which are hardly touched by Strack, while other collections of a much more pretentious character try to offer new solutions even for these complicated questions. But since these hypotheses are based on an inadequate acquaintance with one, or in the best case a few treatises of the Mishna, they are of no value whatsoever, and in no way compare with those of Strack, which in the more limited field they cover are excellent, and must be consulted even by the specialist. Strack, who has devoted many years of patient labour to this branch of learning, fully realizes the difficulties of the task, and does not think of startling the reader with unfounded theories and discoveries which lack all basis. His work only gains by this attitude.

P. S.—Since I wrote the above a new treatise has been edited by Strack: *Berakoth*. Der Mišnatraktat 'Lobsagungen'. Mit Vokabular und drei Registern. Leipzig: J. C. HINRICHS, 1915. pp. 32 + 24. The new volume includes some of the prayers discussed in the treatise, and, as an appendix, the Palestinian version of the *Shemone Esre* published first by Dr. Schechter in the *JQR.*, X. The text of the Mishna is based on only three manuscripts and three editions, not including MS. De Rossi nor the Berlin Mishna with Maimonides, which is accessible in Weill's edition.

A comparison of Ginzberg's *Yerushalmi Fragments* would have been advantageous. Strack states here that he only gives a selection of the variants. In general the volume shows the same excellence as its predecessors.

ALEXANDER MARX.

Jewish Theological Seminary
of America.

RECENT ARABIC LITERATURE

- The Governors and Judges of Egypt of El Kindī.* Together with an Appendix derived mostly from Raf' El Işr by Ibn Ḥajar. Edited by RHUVON GUEST. Leyden: E. J. BRILL, 1912. pp. 72+686. (E. J. W. Gibb Memorial Series. Vol. XIX.)
- The Kitāb Al-Ansāb of 'Abd Al-Karīm Ibn Muḥammad Al-Sam'ānī.* Reproduced in facsimile from the manuscript in the British Museum Add. 23, 355. With an Introduction. By D. S. MARGOLIOUTH, D.Litt., Laudian Professor of Arabic in the University of Oxford. Leyden: E. J. BRILL, 1912. pp. 7+1206. (E. J. W. Gibb Memorial Series. Vol. XX.)
- The Pearl-Strings.* A History of the Resūliyy Dynasty of Yemen. By 'ALYU' BNU' L-HASAN 'EL-KHAZREJYY. The Arabic text. Edited by SHAYKH MUḤAMMAD 'ASAL. Leyden: E. J. BRILL, 1913. pp. xii+442. (E. J. W. Gibb Memorial Series. Vol. III, 4.)

THE publication of Arabic texts, which, owing to the rivalry of Assyriology, was somewhat neglected in the last few decades, is now being successfully resumed. The E. J. W. Gibb Memorial fund is being utilized for the purpose of printing various Oriental manuscripts, and the trustees deserve credit for their judicious selections. The object of this Memorial is to promote researches into the history, literature, philosophy, and religion of the Turks, Persians, and Arabs, and the Arabic texts that have hitherto appeared in this series cover nearly all these branches, though historical texts are the most prominent.

Al-Kindī, who may or may not have been a descendant of the famous philosopher of that name, was a native of Egypt and a contemporary of Sa'adya. It is possible that he was of Jewish extraction, as in pre-Islamic times Judaism is known to have

prevailed in the tribe of Kindah from which this historian derives his appellation. His family, however, seems to have settled in Egypt a short while after the Muhammedan conquest. He was a prolific writer, and his book on the Governors and Judges of Egypt is of great importance as an historical source for the period with which it deals. As is the custom of Arabian historians, al-Kindī gives his authorities for every statement he makes, and is very accurate in matters of dates.

Mr. Guest has written a very valuable introduction, and has given a concise sketch of events in Egypt from the seventh to the eleventh century. He has also outlined the particulars of al-Kindī's life which are mainly derived from anonymous notes in the British Museum manuscript upon which the edition is based, and he has described the authorities al-Kindī names in his book. If we disregard the misprints which are practically unavoidable in a work of such magnitude, and which the intelligent reader will easily be able to correct, we may say that the text is extremely well edited. Mr. Guest is very painstaking, and in his notes, which are written in Arabic, he draws attention to variants and corrections. He also points out difficulties which he is unable to solve, and this inspires confidence in the editor's carefulness. All along the reader feels certain that the text has been faithfully reproduced, except in cases where the editor deemed it necessary to resort to emendations to which attention is called in the notes. In a very instructive manner Mr. Guest has carefully compared his text with the works of other writers dealing with the same subject. Makrīzī's *al-Hiṭaṭ* proved very helpful for the first part of the work.

In some instances, however, Mr. Guest's corrections are scarcely justifiable. The spelling of رَقَى for رَقَى (p. 83, l. 1), and هَدَى for هَدَى (p. 114, l. 5) may be dialectic, and should therefore be allowed to remain in the text. Arabic has a great number of such double spellings and pronunciations. As a matter of fact Freytag records رَقَى in the sense of *ascendit*, that is to say, رَقَى. Such cases are quite frequent in Hebrew. Some of the *tertia* became *tertia* in mishnic Hebrew. Nor is it necessary to

change الخلافة (p. 124, l. 9) to بالخلافة, though the latter is more natural when constructed with دعا.

The numerous verses that are quoted in this book have for the greater part been carefully vocalized. It is, however, possible to improve a line here and there. The following are a few examples:

P. 52, l. 10. يَلْقَمُ should be لَقَمٌ; *will be made to devour*; the metre is Mutakārib.

P. 63, l. 9. Instead of هَشَمَ read هَشِيمَ; the metre is Wāfir.

P. 92, l. 2. Read عَمِيدُهُم; the metre is Kāmil.

P. 145, l. 10. The metre which is Ḥafīf demands that we should vocalize مِصْرَ against grammar.

The rhyme of the poem on p. 175, ll. 15-17 should be لُءُ, not لُ; the metre is Ṭawīl.

P. 271, l. 8. Vocalize عُدُوهُمْ; the metre is Ṭawīl.

P. 403, l. 11. Delete بِأَمْرِي, as the poem is in the Mutakārib metre, and that word is not essential for the sense.

In his glossary to this book Mr. Guest explains words and expressions which are not recorded in any lexicon, or are rarely used. But his explanation of the phrase حوت بحر ووجل بر cannot be regarded as satisfactory. He takes it to mean: 'I am a river fish and an intruder on land', i.e. a fish out of water. But even if we grant that وَغَلٌ denotes *an intruder*, it is too vague to be used as a parallel to حوت in a proverb. We should perhaps change غ to ع, and read وعِل *a mountain-goat*.

It is hard to say what part the Jews took in the political life in Egypt at that time. The Jews adopted Arabic names, and Muhammedans bore biblical names, and hence we have to rely on the author's explicit remarks as to the religion professed by the men he mentions. In the vast array of governors, judges, and other officials, there is not one designated as a Jew. There are, however, a few references to Jews which indicate that there already existed a considerable Jewish community in Egypt in the early days of Muhammedan rule. As they may be of interest to the historian, I deem it advisable to translate these short passages into English.

‘Aḥmad b. Ṭūlūn commenced building the Square in Sha‘bān in the year 256 (c. 870 c. E.), and he commanded to plough up the Jewish and Christian cemeteries’ (p. 215, ll. 11 f.).

‘Aḥmad b. Ṭūlūn’s illness grew worse, and he commanded the people to pray for him . . . And the Jews and Christians were also present, but they were separated from the Muslims’ (p. 231, ll. 11 ff.).

It is noteworthy that this Aḥmad, who had committed an act of sacrilege against the Jews and Christians, wanted them to pray for his recovery.

‘Some Jews instituted a litigation against Ibn Ḥujairah (a judge who held office about 716 c. E.) before ‘Omar b. ‘Abd Ṭ-‘Azīz, and claimed that he had taken money from them. He affirmed that he had taken the money, but subsequently returned it to them. ‘Omar asked him: “Do you have any witnesses that you returned the money?” He replied: “No!” He then said: “You are obliged to pay, Oh Ibn Ḥujairah, and you have pledged yourself”. Afterwards he stated that he had witnesses, and some men testified in his favour’ (p. 332, ll. 17 ff.).

This reference is, through oversight, not entered in Mr. Guest’s index. It is true that the Yā of ^{٢٤٤} has no diacritical points in the text, but this is the only possible reading which is also found in *Raf‘ al-Iṣr* as quoted in the note.

‘Ḥair b. Nu‘aim used to accept the testimony of Christians concerning Christians, and that of Jews concerning Jews. He would inquire about their integrity from their own co-religionists’ (p. 351, ll. 8 f.).

There are two more places where Jews are mentioned (p. 424, l. 1, and p. 569, l. 14), but they only refer to Jews in general.

The Arabs, like the Jews and almost all other nations, have attached great importance to the study of pedigrees. The historical value of such studies can scarcely be overrated. In Arabic there are a good many works devoted to this subject, but the most exhaustive is no doubt al-Sam‘ānī’s *Book of Ascriptions* (*Kitāb al-Ansāb*), that is to say, adjectival forms indicating the tribe, country, &c. to which the person belonged. Al-Sam‘ānī flourished

in the twelfth century, and was regarded as a very learned man. Born in Merw, he travelled extensively in search of material for his books which are supposed to number forty-nine.

Such a work is naturally not for the ordinary reader, but a book of reference for the mature scholar. It was therefore unnecessary to transcribe the manuscript and edit it, especially as, owing to the magnitude of the book, the labour entailed would have been tremendous. The reproduction in facsimile is sufficient for the average scholar. As al-Sam'ānī arranged the *ansāb* alphabetically, there was no need to compile an index. In most cases, however, the commencement of a *nisbah* in this manuscript is in the same characters as the other words, and the use of the book would have been very troublesome. To obviate this difficulty Mr. A. G. Ellis, formerly of the British Museum and now of the India Office Library, marked with a circle on the margin where a *nisbah* begins.

Prof. Margoliouth's short introduction contains a concise sketch of al-Sam'ānī's life. The salient facts for this sketch are gathered from the chronicles of Ibn al-Athīr and Ḍahabī, as well as from the biographical dictionaries of Ibn Ḥallikān and Subkī. Al-Sam'ānī in this work refers to himself and his friends now and again, and these data, too, were made use of by Prof. Margoliouth. There is, however, in this introduction one statement to which exception can be taken, and which is quite irrelevant to the subject. In discussing the study of *ansāb*, Prof. Margoliouth remarks that 'its importance for the early Arabs is rightly connected with the blood-feud by the author of a curious mediaeval "squib", fathered on the eminent Rabbi Saadyah Gaon'. This is an allusion to the *Sefer ha-Galūy*. In *JQR*, XIII, Prof. Margoliouth published a paper assailing the authenticity of that book. He tried to demonstrate that it was merely a parody on Sa'adya written by a Karaite. Harkavy, who had edited the fragments of that book, ably refuted all of Prof. Margoliouth's arguments. Even at that time the latter stood alone in his remarkable position. For Steinschneider, who had maintained a sceptical attitude towards that book, changed his mind when the then existing

fragments appeared. Since then new finds confirmed Harkavy's view. Prof. Schechter published a few leaves of the Hebrew part in his *Saadyana*. One of Prof. Margoliouth's chief supports was the word שְׁעָרֵי, which was not very clear in the manuscript, and which he took to stand for סְעָרֵיהּ. But in the fragment now at the Dropsie College, which was published by Prof. Malter in *JQR.*, New Series, III, pp. 487 ff., this word is אֶלְשֹׁנֵרִי, *the Babylonian* (see p. 789, note 5). In view of this overwhelming evidence it is high time for Prof. Margoliouth to change his opinion about the *Sefer ha-Galūy*.

The publication of al-Ḥazraǧī's *Pearl-Strings* (*al-'Uḫūd al-Lu'lu'iyah*) has a somewhat romantic history. Some thirty years ago Sir James William Redhouse transcribed this book from a manuscript in the India Office Library, and translated it into English. He handed it over for safe keeping to the authorities of the Cambridge University Library in gratitude for the degree of Litt.D. that was conferred on him. He then expressed his view that he saw no possibility of having the book published. But the trustees of the Gibb Memorial took the book in hand, and in 1906, 1907 they published the English translation in two volumes, and now we have the first half of the Arabic text. As is explained by Prof. Browne in his preface, this edition is not based upon Redhouse's transcript, but upon the original manuscript.

'Alī b. al-Ḥasan al-Ḥazraǧī was a friend of Firūzābādī, the famous author of the *Ḳāmūs*, and died at the beginning of the fifteenth century. He possesses a graphic style, and displays remarkable skill in handling his subject. This book has great merit, and fully deserves publication, although one is tempted to say that the edition of Ibn Ḥātim's *ʾIkd*, from which al-Ḥazraǧī freely borrowed, should have taken precedence. This volume contains the earliest history of Yemen from almost legendary times until A. H. 721 (about 1320 C. E.). The story of the bursting of the dam is given at full length. When the author reaches the Rasūlī dynasty he takes up every year, and describes the important events, and gives an account of the learned men who died in

each year. He skilfully characterizes each man. If the man whose career is briefly sketched happens to have been some sort of a poet, some of his verses are given.

Sheikh Muḥammad 'Asal's part of the work has so far been to supervise the printing of the book. His few Arabic notes deal mostly with the state of the text. Now and again, however, he has a very learned suggestion. In his preface he promises to write, after the completion of the book, about the usefulness and historical value of the *Pearl-Strings*. Despite the fact that the book was printed in Egypt and supervised by an Egyptian Sheikh, it is not free from misprints, as, for instance, بالزلزل (p. 9, l. 9) instead of بالزلزل, and نجويا (p. 128, l. 18) instead of نجويا. It seems to me that فوق (p. 107, l. 7) ought to be فوق. A curious case of inconsistency is اشراف (p. 27, l. 7) which is a quotation from p. 26, l. 4, where it is املاك. On p. 105 the hemistichs of ll. 2, 3 are wrongly divided: فذلوا and لانفس, respectively, are to finish the first hemistichs. The metre is Ṭawil. The sense, as well as the metre, which is also Ṭawil, demands the reading الاقبال (p. 383, l. 1).

The following are the references to Jews in this volume:

'Abū Jablah b. 'Amr is the one who killed the Jews in Madinah' (p. 19, l. 13).

'The jurist Muḥammad al-Māribi (died about 1240 C. E.) was going one day to his house, and met a man riding on a beautiful she-mule, and a number of youths were with him. The jurist thought this man was a wazir or a judge, or some other dignitary. When he asked who the rider was, he was informed that he was a Jewish physician who served the Sultan in that capacity. He then shouted at him, dragged him down from the mule, and threw him to the ground. He also took off his shoe and smote him violently with it, and said: "Oh enemy of God and enemy of His apostle, you have overstepped your limit, and it is therefore necessary to humiliate you." When the jurist left him, the Jew rose, and returned to the gate of the Sultan asking for help (read يستغيث). When the Sultan Nūr al-Dīn was told that the jurist Muḥammad al-Māribi was the opponent of the Jew, he sent

a messenger to him asking about the incident. The jurist said to the messenger: "Greet the Sultan and tell him that it is not lawful to allow Jews to ride on mules with saddles, and it is not permitted that they should have supremacy over Muslims. If they do such things they lose the protection of Islam." The messenger returned to the Sultan with the jurist's reply. When the Sultan heard that, he said to the Jew: "Go with the messenger to the jurist that he may inform you what the ordinance requires of you. You should do whatever you are told." He then turned to the messenger and said: "Tell the jurist: the Sultan greets you and would like (read, perhaps, *يحب*) that you should tell this Jew what the ordinance requires of him. The moment he oversteps his limit he forfeits his protection." The jurist prescribed certain ordinances for the Jew. The latter departed, and the messenger returned to the Sultan, and told him what had happened. The Sultan then said to the Jew: "Beware you do not deviate from the prescriptions of the jurist or you will be killed, and no one will save you. For this is the law of God and the ordinance of His apostle." The Jew then departed to his house' (p. 66, ll. 6 ff.).

Shams al-Dīn (thirteenth century) in a poem says: 'Men denied us all virtues, as if we were Christians or Jews by religion' (p. 117, l. 10).

There is a reference to the tribute paid by Jews on p. 189, l. 16.

Abū 'l-Mahāsīn Ibn Taghrī Birdī's Annals. Edited by WILLIAM POPPER (vol. III, part 1, no. 1). Berkeley: at the UNIVERSITY OF CALIFORNIA PRESS, 1913. pp. iv + 130. (University of California publication in Semitic philology.)

Ibn Tagrī Birdī's method of writing is in many respects similar to that of al-Ijzrajī, though as an author he is less imaginative and graphic than the latter. He, too, first gives a general description of the reign of every ruler, and then takes up every year separately, chronicles every important event, and mentions

the learned men who died during that year. At the end of every description he records the state of the Nile. Although his chief aim is to give an account of the Egyptian rulers, he does not confine himself to that country, and described the lives of men who lived in other countries.

The historical importance of this book has long ago been recognized, and as early as 1852 Juynboll and Matthes commenced to edit it. The publication which went as far as volume II, part 1, was interrupted for more than half a century, and Dr. Popper will deserve the gratitude of Orientalists for resuming the edition of this work. The fascicle before us is the first of volume III, and the events narrated in it cover the period A. H. 524-566, that is to say, till the end of the rule of the Fatimides in Egypt. As in the preceding volume the editor has presented a very careful text. His notes are confined to textual matter. He has carefully collated the few existing manuscripts, and has usually chosen the best readings. Now and again he suggests emendations which are not based upon manuscript evidence. These can only be accepted with great caution. An instance to the point is سَفَه (p. 54, l. 13) instead of سَعَة of the manuscript. The former word denotes *stupidity*, and hence can scarcely be used as an antithesis to كَرَامَة, which means here *liberality*. سَعَة (*opulence, wealth*) is, to my mind, by far superior. The line should be translated: *And they left me behind among people of wealth who would die if they saw the phantom of a visitor in their sleep.* Their niggardliness is thus forcibly brought out because of their opulence.

جَمَلَة (p. 32, l. 5) should better be emended to أَجْمَل. Comp. below, l. 8.

The names of the metres of the verses that are quoted are, as a rule, given accurately. The following errors, however, should be corrected:

- P. 71, ll. 5, 6. A sort of Munsariḥ, not Basīṭ.
- P. 74, ll. 3, 4. A Rajaz, not Sarīf.
- P. 76, ll. 5, 6. A sort of Munsariḥ, not Basīṭ.
- P. 79, l. 11. Read كَمَمْتٌ; the metre is Ramal.
- P. 91, l. 9. Kāmil, not Sarīf.

Ibid., ll. 14, 15. Munsariḥ, not Basīṭ.

P. 107, l. 21. Vocalize ^{وَدَمَ}اَوْدَمَ, on account of metre.

P. 111, ll. 6, 7. Ḥafīf, not Basīṭ.

There are a few references to Jews in this fascicle, and the following are summaries of the passages in which they occur :

‘Some of the officials had a grudge against Ḥasan, the son of the Caliph al-Ḥāfiẓ (A.H. 524–544), and demanded his execution. They besieged the Caliph’s castle, and threatened to burn it. Seeing no hope for escape, the Caliph was compelled to yield to them. He had two Jewish physicians, one named Abū Maṣṣūr and the other Ibn Firḡah. When Abū Maṣṣūr was asked by the Caliph to prepare a poison for his son, he excused himself, and swore by the head of the Caliph and by the Torah that he had no knowledge of this matter. Ibn Firḡah then came in, and on the Caliph’s demand prepared a poison which Ḥasan was made to drink. His enemies, convinced of his death, were appeased. But the Caliph wreaked his vengeance on Ibn Firḡah. He arrested him, and confiscated his property. On Abū Maṣṣūr, however, he bestowed great favours, and appointed him chief of the Jews’ (p. 6, ll. 9 ff.).

‘They dug up a deep foundation in the fifteenth year of al-Ḥāfiẓ’s rule (A.H. 539), and found a large stone on which were inscribed two lines in Syriac. A Jewish Sheikh came and translated them into Arabic’ (p. 35, ll. 1 ff.).

‘When ‘Abd al-Mu’min b. ‘Alī conquered Morocco in A.H. 542, he caused the Jews and Christians to appear before him, and said “The Imām al-Mahdī commanded me that I should not allow any one to profess any other religion but Islām. You declared that after the period of five hundred years somebody would come to support your creed. Now that time has already elapsed. I therefore give you to choose one of three things: become Muslims; settle in the region where war is constantly waged; or else I shall behead you.” Some of them embraced Islām, while others settled in the region where war is constantly waged’ (p. 39, ll. 22 ff.).

In speaking of the rule of al-‘Ādid (A.H. 556–566) he mentions that that dynasty claims to be of noble pedigree, while in reality it is of Jewish origin (p. 90, ll. 3, 5, 8).

Kitāb al Ṭawāṣīn. Par ABOÛ AL MOGHÎTH AL ḤOSAYN IBN MANṢOÛR AL ḤALLĀJ. Texte arabe, publié pour la première fois par LOUIS MASSIGNON. Paris: PAUL GEUTHNER, 1913. pp. xxiv + 223.

The title of this book immediately suggests its mystic character. As is well known certain Sūrahs of the Qur'ān begin with letters which have hitherto not been satisfactorily explained. The letters *ṭā* and *sīn* occur at the beginning of Sūrahs 26, 27, 28. Hence these letters are combined into *ṭāsīn*, and the plural thereof is *ṭawāsīn*. Al-Ḥallāj in the present work offers various mystic interpretations of these initials. The mode of treatment is not dissimilar from that of the Jewish Kabbalists. This writer who was one of the greatest mystics among the Arabs was born in 858 c.e. His doctrines displeased the various sects of Islām, and he was arrested on several occasions. In the year 922 he was flogged and beheaded in a prison in Bagdad. He was the author of numerous works in prose and verse, mostly dealing with mysticism. Like most mystics he writes in a rhetorical style, and even his prose has many poetic touches.

The work of M. Massignon has been more than merely that of an editor. He has divided the text into paragraphs, and printed it in parallel columns with al-Baḳlī's Persian translation, which may help one to understand the Arabic original. This translation, by the way, tends to prove that there existed two different recensions of the *Kitāb al-Ṭawāṣīn*. The editor ably discusses the authenticity of the text, and from citations in other works conclusively proves that this book is by al-Ḥallāj, or at least one that was ascribed to him as early as in the tenth century. He also gives a masterly analysis of the entire work. After the text and translation he prints extracts of al-Baḳlī's commentary. In order to point out the real importance of the *Kitāb al-Ṭawāṣīn* M. Massignon summarizes the principles of the doctrine of al-Ḥallāj. In this sketch he shows great insight into the mystic philosophy of the Arabs, and a thorough grasp of the works of al-Ḥallāj. He then gives copious and extensive notes on the

text itself. In these explanatory notes he does not confine himself to textual matter, but cites passages from other writers in order to establish the exact signification of the text under consideration, and to indicate the influence that al-Ḥallāj exercised over subsequent mystic writers. There is a wealth of material collected here, and once more M. Massignon proves himself to be master of his subject. In conclusion he prints the last prayer of al-Ḥallāj, which was uttered before his execution on March 25, 922. There are four recensions and a Persian translation of this prayer, and all are given in parallel columns followed by a French rendering. This prayer is pervaded by mystic and religious fervour.

While reading the Arabic text and the passages quoted throughout the book I made some corrections and emendations, some of which I found in the table of corrections given in the name of Martin Hartmann, Reynold A. Nicholson, and Miguel Asín Palacios. In the following list I give some of my corrections to which attention has not been drawn at the end of the book.

P. xii, l. 3. شَتَّ should be vocalized شَتَّ.

P. 9 A, l. 8. قُرَيْبِي should be قُرَيْبِي on account of the rhyme.

P. 10 A, l. 11. فَحَدَّرَ, which gives no sense in this connexion, should be emended to فَحَدَّرَ parallel to وَاذَر, which is suggested by Nicholson. It thus rhymes with the other lines.

P. 11 A, l. 15. Read البرية.

P. 13 A, l. 13. غُرْفَة, which makes no sense, should be read عُرْفَة.

P. 14 A, l. 12. Instead of اعلامة read اعماله which would be parallel to, and would rhyme with مقالة.

P. 38 A, l. 6. Read قَاتِلَهُم.

P. 42 A, l. 15. Vocalize حَيْنَ, as حَيْنَ denotes a calamity.

P. 43 A, l. 14. Read وَأَنِّي.

P. 133, l. 6. Read جَرِي.

P. 180, l. 11. Read وَكَرَّ . . . وَعَلَى.

Ibid., l. 17. Vocalize يَجِدُ.

In a few cases the metre is incorrectly given.

P. 24 A, l. 3. The metre is a sort of Munsariḥ, not Basīṭ. The end of the lines should be $\text{قَـ} \text{ـ}$.

P. 31 A, l. 4. The metre is not Wāfir, as given in the text, nor Basīṭ, as corrected by Nicholson, but Munsariḥ.

P. 133, l. 8. The asterisk dividing the hemistichs should be placed after إِلَّا . In the same line vocalize خَفِيّ .

Ibid., l. 9. The metre demands that we should read عَشْر .

P. 138, ll. 4-6 are given as Ḥafif, which is incorrect. The lines do not belong to one metre.

P. 170, ll. 1, 2 require certain corrections if they are to conform to the metre Basīṭ as given in the text.

P. 181, ll. 18 ff. The metre is Ramal, not Basīṭ. The word لَاخَوَان is erroneously divided into two.

P. 196, ll. 5, 6. The metre is Sarī', not Basīṭ. l. 6 a is corrupt.

Abu 'l-Barakāt ibn al-Anbārī: die grammatischen Streitfragen der Basrer und Kufer. Herausgegeben, erklärt und eingeleitet, von GOTTHOLD WEIL. Leyden: E. J. BRILL, 1913. pp. iv + 211 + 35 + 355.

Die grammatischen Schulen von Kufa und Basra. Von GOTTHOLD WEIL. Zugleich Einleitung zu der Ausgabe des Kitāb al-Insāf von Ibn al-Anbārī. Leyden: E. J. BRILL, 1913. pp. 116.

A language possessing a canonized literature will naturally tend to become grammatically fixed. For canonical books must be accurately and carefully read, and in many cases they serve as models for subsequent literary productions. In such books every detail assumes great importance, and hence attempts are made to fix the exact spelling and pronunciation of each word. In Hebrew this circumstance gave rise to the Masorah, and in Arabic it was the incentive to the grammatical schools that were established in Baṣrah and Kufah. The Arabs had, in addition to the Ḳur'ān, some secular poems which were carefully transmitted, and the accuracy of which could in many cases be

determined by the metre and rhyme. Now and again, however, we meet with conflicting or ambiguous traditions which occasioned disputes in the various schools. Just as in Hebrew we have conflicting traditions (מסורות מתחלפות), so the Arabs, too, have preserved controversies between the two famous schools of Baṣrah and Kufah. And as the tradition of the Arabs is of comparatively recent date, the controversies, as well as the reasons assigned for each opinion, are extant.

Abū 'l-Barakāt al-Anbārī, an extremely prolific writer of the twelfth century, whose books are said to amount to one hundred and thirty, was asked to compile a list of the points on which the two schools held different views, and the result was the *Kitābu 'l-Inṣāfi fī Masā'ilī 'l-Ḥilāfi baina 'n-Nahwiyyina 'l-Baṣriyyina wa'l-Kufiyyina* ('the book that justly decides between the controversies of the grammarians of Baṣrah and Kufah'). In this book he collected one hundred and twenty-one questions together with the reasons for the opinions held by each school. After a lengthy discussion the author gives his own decision. In many of the questions and arguments deep grammatical insight is displayed, and the method employed is not dissimilar from that of modern comparative grammarians. Ibn al-Anbārī's decisions, however, cannot always be followed, as his sympathies unmistakably are with the Baṣrites. Of especial interest is the discussion why the complement of *kāna* ('was') and its 'sisters' is in the accusative case. The Kufites maintain that this is the accusative of condition (*ḥal*), while the Baṣrites say it is a sort of object (Arabic text, pp. 348-51). Some of the disputes appertain to grammatical usage, whereas others are academic discussions as to the explanations or derivations of certain forms or constructions. The latter make up the greater part of the questions, and deal with such topics as the derivation of *ism* ('a name'), whether it is derived from *samā* (the Baṣrites) or *wasama* (the Kufites), and the formation of *sayyid* ('a lord'), whether it is a *fa'il* (the Kufites) or *fai'il* (the Baṣrites).

Dr. Weil's introduction treats of several interesting themes. He gives a survey of the origin and development of the schools of

Arabian grammarians. In the historical part of this study he follows Gustav Flügel's *Die grammatischen Schulen der Araber*, and is able to make additions from books that have become known to European scholars since 1862, when Flügel's book was published. He further discusses the principles that underlie the two schools, and skilfully grapples with the problems connected with them, though his general conclusions do not appear to me to be convincing. According to his exposition the fundamental difference between these two schools consists in the fact that the Baṣrites laid particular stress on analogy, whereas the Kufites adhered to tradition as closely as possible. Thus if a certain expression is found in an ancient poem, it is considered of sufficient weight by the Kufites, and is hence regarded as sanctioned by usage. The Baṣrites, however, only accept those expressions which are not contrary to analogy. Should these really be the principles that prevailed in these schools, modern grammarians would be inclined to concur with the former, for language is not logical, but rather psychological, and hence grammar must be based upon well-established facts, not upon analogy which in its last analysis is nothing more than abstract reasoning. The line of demarcation, however, between these two schools is not as sharply drawn as Dr. Weil supposes. They both make use of analogy and tradition, and there hardly seems to be a fixed system. Sometimes analogy is appealed to in support of the Kufites, and the Baṣrites do not despise tradition when it is on their side. Either principle is given as support whenever suitable. Moreover, members of one and the same school are not always in agreement. There are cases when some Baṣrites agree with the Kufites, and vice versa. Had their respective systems been fixed, this internal disagreement could hardly have arisen.

Some of Ibn al-Anbārī's questions have been published on previous occasions by Girgas and Rosen in their *Chrestomathy* (nos. 5, 9, 18, and 34), by Koshut (nos. 2, 3, 4, 69, and 110), by Buhl (nos. 18, 105, 106, 108, 116), and by Dr. Weil himself (nos. 105, 108). But this is the first time that the book is published in its entirety, and Dr. Weil is to be congratulated on

the excellent edition he produced. The book is indeed well edited and well annotated. The edition is based upon the Leyden manuscript, though other manuscripts have occasionally been made use of. In the notes attention is now and again called to variants. By carefully vocalizing ambiguous words Dr. Weil was able to dispense with some explanatory notes.

With great industry Dr. Weil succeeded in tracing almost every poetic quotation occurring in this book to its source. Those who know how scattered the material is will certainly appreciate his labours. On the basis of the metre I should like to offer the following remarks :

P. 90, l. 22. Read *وَحَلَّتْ بِأَوْلَادِهَا الْمَرْضَعَاتِ*. The metre is *Mutaḳārib*. The sense, too, is improved by this correction.

P. 169, l. 12. Vocalize *يَمِينَكُمْ*. The metre is *Sarī*.

Ibid., l. 15. Vocalize *هِنْدَ*. The metre is *Basīṭ*.

P. 206, l. 1. *إِلَى* is impossible, as the metre is *Kāmil*. Read perhaps *وَالِى*.

P. 319, l. 11. *مِنْ إِيَّاهَا* cannot be right, although it is quoted again in the following line. As the metre is *Ṭawīl* we ought to read perhaps *مِنْ الْإِهْدَا*.

The verse quoted in note on p. 187, l. 3 should begin *ثَلَاثَ* or *ثَلَاثًا*. The metre is *Wāfir*.

For those who are interested in the growth and development of the grammatical schools among the Arabs, but do not care to have the Arabic text, Dr. Weil published his introduction separately. With the exception of a short preface, this pamphlet is identical with the introduction printed at the beginning of the *Kitāb al-Inṣāf*.

R. Brünnow's Arabische Chrestomathie. Aus Prosaschriftstellern in zweiter Auflage völlig neu bearbeitet und herausgegeben von AUGUST FISCHER. Berlin: REUTHER & REICHARD, 1913. pp. xiii + 183 + 161. (Porta Linguarum Orientalium, Pars xvi.)

Enseignement de l'Arabe parlé et de l'Arabe régulier d'après la méthode directe. Lectures choisies, contes, fables, anecdotes, récits sur la vie arabe, les mœurs et coutumes des Arabes, les travaux agricoles, etc. Par ABDERRAHMAN MOHAMMED, Professeur au Lycée d'Oran. (2^e édition.) Algiers: ADOLPHE JOURDAN, 1913. pp. viii + 144.

Méthode de langue kabyle. (Cours de deuxième année.) Étude linguistique et sociologique sur la Kabylie du Djurdjura. Texte zouaoua suivi d'un glossaire. Par BOULIFA S. A., chargé du cours pratique de langue kabyle à la Faculté de Lettres et à l'École Normale d'Alger. Algiers: ADOLPHE JOURDAN, 1913. pp. xxiv + 544.

Brünnow's Arabic Chestomathy has enjoyed great popularity among students and teachers, as it practically covered the most important branches of that literature with the exception of poetry, to which a separate book was devoted in the *Porta linguarum* series. This edition is now exhausted, and the preparation of a new edition fell to the lot of Prof. August Fischer. Although the first edition served as a model to some extent, the selections incorporated in the present edition are, with the exception of twenty-nine pages, entirely new. The bulk of the texts, too, is increased by twenty-two pages. Prof. Fischer did well in following the examples of chrestomathies published in the Orient, like the *Majānī al-Adab*, and gave first a collection of short anecdotes which are written in a very simple style. These anecdotes are excerpted from Shākīr al-Batlunī's *Tasliyat al-Ḥawāṣīr*. This is followed by the biographies of Ta'abbata Sharran, ẖeis b. Ǧariḥ, and 'Urwah b. Ḥizām al-'Uḍrī, which are taken from the *Kitāb al-Aḡānī*. Then come excerpts from Ibn Hishām's *Biography of the Prophet*; Ṭabari's *Annals*; Ibn Ḥallikān's biographies of Sibawaih, Buḥārī, Ibn Ishāq, Abū 'l-'Alā' al-Ma'arrī, and Ḥarīrī; the ẖur'an; Buḥārī's works of Muhammedan tradition; the *Ajurrūmiyyah*.

From these selections it may be seen that Prof. Fischer has proceeded from the easier to the harder, and has given the

learner the opportunity of acquiring a fairly good vocabulary by reading attractive passages from the best prose writers. The glossary is compiled on the usual lines, and gives concise explanations in German of every word and expression that occurs in the book. In the case of rare words and phrases, or those that may appear difficult to the beginner, reference is made to the passage where they occur. English-speaking students, however, will, perhaps, resent the omission of the English translation of the glossary, which was one of the merits of the first edition. In justification of the publishers, who are responsible for this omission, it may be urged that English-speaking students who take up Arabic, as a rule, possess a sufficient knowledge of German to be able to consult an Arabic-German glossary.

The Arabic type employed throughout the book is that which is customary in European editions. This can hardly be regarded as satisfactory, as the learner gets accustomed to this character, and finds it difficult to read books printed in the Orient. Syriac chrestomathies for beginners usually contain specimens of the various types employed. Why should not the Arabic student be trained to read with ease books printed in Beyrout, Bulak, Algiers, and other centres of Oriental culture?

It is the want just mentioned that Abderrahman Mohammed's Arabic chrestomathy partially supplies. This book is printed in Algiers type, and with a little practice the learner will be enabled to read it fluently. It comprises two parts: part one contains passages written in the dialect of Algiers, while part two is in classical, or rather, ordinary Arabic. Apart from style, the two parts differ also in their contents. Part one comprises anecdotes and descriptions from the life of the Arabs, especially those residing in Algiers. These descriptions are given in the form of short sketches which make very interesting reading. Part two consists of fables, anecdotes, and narratives which are excerpted from the books of Luḡmān, Sharishī, Ibn Baṭūṭah, and others. At the end of every sketch there are brief notes in Arabic explaining rare or vulgar words. On the whole the arrangement of the texts is very judiciously done, and although the book is

primarily intended for schools in Algiers, it can be profitably used by the Western student. Part one is especially useful, because it contains numerous words and grammatical forms that are employed in the dialect spoken in Algiers.

Since Hanoteau wrote his *Essai de grammaire kabyle* in 1858, the Zouave dialect of the Kabyles (Arabic *ḵabā'il* = 'tribes') has been more minutely investigated, and M. Boulifa has incorporated the best results in his *Méthode de langue kabyle*. As this language possesses no written literature, the difficulties that beset the author were naturally great, but he has successfully overcome them. His method is analytic, and in this respect the book differs from other scientific grammars which have no practical aim. The texts which are in French transliteration deal with the customs and manners of the inhabitants of North Africa, especially of the Kabyles of Jurjura. Almost all phases of their life are described, and the student becomes acquainted with the internal conditions of the people whose language he is acquiring. The Kabyle-French glossary which accompanies the texts is replete with philological matter, as the derivation and etymology of every word are given as completely as possible. One only wishes that the transliteration were different from that adopted by French scholars, as the superfluity of vowels offends the eye.

The Koran or Alcoran of Mohammed. With explanatory notes and preliminary discourse. By GEORGE SALE. Also readings from SAVARY'S version. With maps and plans. London: FREDERICK WARNE AND CO., [1913]. pp. xvii + 516.

Mahoma: El Korán. Traducido del Árabe, ilustrado con notas y precedido de un estudio de la vida de Mahoma, extractado de los libros de los escritores orientales más dignos de crédito. Por M. SAVARY. Versión castellana de A. HERNÁNDEZ CATÁ. Paris: GARNIER HERMANOS. [1913]. pp. xi + 559.

There is no need to dwell on the merits of Sale's English translation of the *Ḳur'ān*. Although it is somewhat paraphrastic,

it has great charms, as it imitates the biblical style. It is therefore no wonder that since its first appearance in 1734 it has been frequently reprinted. Even Rodwell and Palmer's translations, which are more literal, can scarcely supplant it. The present edition offers some improvements in the matter of printing. But the greatest disadvantage of Sale's translation, namely, the fact that verses are not marked, has not yet been removed. The greater bulk of European students and scholars use Flügel's edition of the *Ḳur'ān*, and the verses of the translation should have been marked accordingly. For those who wish to refer to the original the division of verses is almost indispensable. The orthography, too, should have been modernized. There is no reason why the spelling *intitled* should be retained.

The Castilian translation of the *Ḳur'ān* is also a reprint of a well-known book that has enjoyed great popularity. The explanatory notes are concise, and are chiefly based upon the works of native commentators. The sketch of Muhammed's life that precedes the translation is a very interesting study, the facts of which are derived from reliable Muhammedan authors.

B. HALPER.

Dropsie College.

BRÜNE'S 'FLAVIUS JOSEPHUS'

Flavius Josephus und seine Schriften in ihrem Verhältnis zum Judentume, zur griechisch-römischen Welt und zum Christentume. Mit griechischer Wortkonkordanz zum Neuen Testamente und I. Clemensbriefe nebst Sach- und Namen-Verzeichnis. Anhang: Inhalt nebst Sachregister zu *Josephus, der Geschichtsschreiber*. Von B. BRÜNE, Pfarrer em. Gütersloh: C. BERTELSMANN, 1913. pp. vii + 308 + xi.

BRÜNE's volume is in response to a long-standing suggestion of Schürer (*Theologische Literaturzeitung*, XII, 417 ff.) who, in reviewing some general works on the religious-philosophical views of Josephus, expressed the need of a detailed study of the origin and sources of Josephus's writings, a thorough analysis of the various elements which, though represented only in Josephus, really constitute the characteristics of Janus-faced Hellenistic Judaism. In the attainment of this end Niese's critical text was of great value to Brüne, who traces minutely the affiliations of the great historian with his predecessors and contemporaries, and points out the far-reaching influence of the Greek world upon him. This influence was many-sided, manifesting itself not only in the linguistic guise of his writings but also in the development of his ideas under the stress of a higher Greek training. The fact as a whole has been known heretofore, but the merit of Brüne lies in the minute elaboration of specific points and the careful description of particular traits and nuances.

The book, besides an introduction describing Josephus both as a man and a writer, contains four main divisions: (1) Change of expressions in Josephus; (2) Judaism in Josephus; (3) Josephus and the Greek-Roman world; (4) Josephus and Christianity. In point of language and diction Josephus resembles Polybius, though it must be admitted that he also made ample use of Xenophon, Thucydides, and Herodotus. Like these he is a

master of flexion and syntax. Nevertheless, here and there we are also reminded of the cumbrous and artificial style of the Stoic philosophers, with discordant latinisms in a minor degree. A comparison with the New Testament literature shows many similarities in the use of *ἅπαξ λεγόμενα*, but this coincidence is due largely to the same subject-matter and the limitation of the vocabulary with regard to it. The Judaism of Josephus is hyphenated, based on both belief and reason. It is Hellenized Judaism pure and simple. Like Herodotus Josephus is religious and yet rationalistic. His religion is quasi-Pharisaic, while his rationalism is Platonic-Pythagorean, derived from Aristotle, Plato, and the Stoic school which he emulates throughout. This duplicity in theology was a natural concomitant of Josephus's duplicity in politics and the evident result of his education. It is a characteristic which always comes to the surface at whatever angle we may look on the great historian. Hence it is that we find it also in his attitude towards Christianity, against which he conducts a disguised polemic.

Brüne's treatment is very lucid, furnishing a plethora of detail in lexical and rhetorical matters. Considering the wealth of the comparisons there is no wonder that a few mistakes have crept in here and there, but these are largely printer's errors. As might have been expected, the chapter on the Greek-Roman influence is more thorough than that on the Judaic elements. The book closes with a list of contents and an index of subjects to the author's previous book *Josephus, der Geschichtsschreiber*, published at Wiesbaden in 1912.

RICHARDSON'S 'LIBRARY HISTORY'

Biblical Libraries. A Sketch of Library History from 3400 B.C. to A.D. 150. By ERNEST CUSHING RICHARDSON, Librarian of Princeton University. Princeton: PRINCETON UNIVERSITY PRESS, 1914. pp. xvi + 252 + pl. 30.

The question whether libraries existed in antiquity has been debated with increased vigour since the memorable discovery of

Ashurbanipal's library at Nineveh in 1850. As might be expected, the whole question revolves about the meaning of the word library, whether it designates any collection, both small and large, of books in circulation (and hence synonymous with archive) or refers to a vast collection of works only as that of Ashurbanipal. The author of *Biblical Libraries* favours the latitudinal construction, stating at the outset (p. 1) that 'there were thousands, or even tens of thousands, of collections, containing millions of written books or documents in Biblical places in Biblical times', which he terms libraries, after giving his reasons in a lengthy discussion by way of introduction.

Mr. Richardson is not a novice in this branch of archaeology, having published heretofore essays on Antediluvian Libraries, Mediaeval Libraries, Some Old Egyptian Libraries, and quite recently a volume entitled *The Beginnings of Libraries*, which has for its subject the history of libraries up to 3400 B.C. The present volume contains the history of libraries from 3400 B.C. to A.D. 150, and is divided into periods. The Babylonian Period deals with the collections of Tello, Sippara, Nippur, and Nineveh; the Egyptian Period includes the literary centres Edfu, Heliopolis, the famous library of Rameses II, called 'The Hospital of the Soul', Denderah, and Amarna; the Palestinian Period covers Boghaz Keui (Hittite), Lachish, Taanach near Megiddo, Debir, Nebo, Kiriath Sepher, and others; the Persian Period describes the library (בית ספריא) of Ecbatana (אחמנה) mentioned in Ezra 6. 1, and that of Susa; the Greek Period deals with the museum library of Alexandria, the library of Judas Maccabeus in Jerusalem, and the Pergamon library; in New Testament times we find in Palestine the temple library, a number of public Greek libraries, and Synagogue libraries whose books, according to Jerome's testimony, were loaned out; in the Apostolic Period we find libraries in Smyrna, Ephesus, Corinth, Rome, &c.

The book, written in a fine narrative style, forms interesting reading. The author not only describes the contents of the various libraries, as far as they are known to us through excavations, but also their various styles of architecture, for an

appreciation of which thirty illustrations are reproduced. Of great assistance is a chapter on bibliography, and also an elaborate index.

NEW YORK PUBLIC LIBRARY JEWISH COLLECTION

List of Works relating to the History and Condition of the Jews in various countries. New York: THE NEW YORK PUBLIC LIBRARY (Astor, Lenox, and Tilden Foundations), 1914. pp. 278 (reprinted from the *Library Bulletin*, July-October, 1913).

The New York Public Library is performing a commendable service to Jewish scholars and students by issuing from time to time lists of works dealing with various phases of Jewish literature. Heretofore a list of Jewish periodicals in the Library was published in the *Bulletin*, VI, 258-64, and a list of Anti-Semitic and Jewish-Christian periodicals in VII, 30-1. The present more comprehensive list, dedicated 'to Jacob H. Schiff, whose generosity made possible this collection', comprises about 4,500 numbers in various languages relating to the history and condition of the Jews in various countries. The list is arranged according to subjects—Bibliography, General Works, Special Periods, Jews in Various Countries, Anthropology and Ethnology, Social and Economic Conditions, Jews in their relations to the Gentiles—and is followed by a general alphabetical index of authors at the end.

The importance of this catalogue lies not so much in recording books and large works, most of which lack the claim of rarities, and are found in other Jewish collections in this country, but in registering many reprints and separates which are by nature ephemeral and rare. Also the abundance of cross-references to collective works and the repetition of titles under several subdivisions which have a mutual claim to them, deserve praise and laudation. Each number bears the class signature for quick reference and orientation. The printing is distinct, and, aside

from a few minor errors (usually in foreign languages), there is nothing to mar the appearance of this book which is bound to be a useful reference work for bibliographers. All students are indebted to the compiler of this list, A. S. Freidus, who is entitled also to a large share of credit for the upbuilding of this greatly-used collection.

JOSEPH REIDER.

Dropsie College.

BOOKS FOR JEWISH READERS

THE BIBLE FOR HOME READING. Edited, with Comments and Reflections for the Use of Jewish Parents and Children, by C. G. MONTEFIORE. Part I: To the Second Visit of Nehemiah to Jerusalem. Extra crown 8vo. 4s. 6d. net. Part II: Containing Selections from the Wisdom Literature, the Prophets, and the Psalter, together with Extracts from the Apocrypha. Extra crown 8vo. 5s. 6d. net.

THE SYNOPTIC GOSPELS. Edited, with an Introduction and a Commentary, by C. G. MONTEFIORE; together with a Series of Additional Notes by I. ABRAHAMS. In 3 Vols. 8vo. Vols. I and II. 18s. net.

TRUTH IN RELIGION AND OTHER SERMONS. By C. G. MONTEFIORE. Crown 8vo. 3s. 6d. net.

OUTLINES OF LIBERAL JUDAISM. By C. G. MONTEFIORE. Crown 8vo. 2s. 6d. net.

SOME ELEMENTS OF THE RELIGIOUS TEACHING OF JESUS ACCORDING TO THE SYNOPTIC GOSPELS. By C. G. MONTEFIORE. Crown 8vo. 2s. 6d. net.

THE BOOK OF PSALMS. Edited, for the use of Jewish Parents and Children, by C. G. MONTEFIORE. Crown 8vo. 1s. net.

FESTIVAL STUDIES: being Thoughts on the Jewish Year. By I. ABRAHAMS. Crown 8vo. 2s. 6d.

LONDON: MACMILLAN & CO., LTD.

THE MINOR IN JEWISH LAW*

BY ISRAEL LEBENDIGER, Holyoke, Mass.

CHAPTER I. THE MINOR IN THE BIBLE

THE problem of the minor played but a small rôle in Biblical times. As a matter of fact, a technical term to denote the minor as a class, is not found in the Bible.¹ The simplicity of early Jewish life did not offer enough opportunities for the development of a sharp line of demarcation between minor and adult. Nor was the organization

* This Essay was written for the Alumni Association Prize offered by The Jewish Theological Seminary of America during the term 1913-14.

The topic was suggested by the late President Schechter as a result of the lectures delivered, in the course of philanthropic lectures, by the Honourable Julian W. Mack on 'Juvenile Courts' before the students of The Jewish Theological Seminary on March 26 and April 3, 1913.

I am under obligation to the late President Schechter, Dr. Cyrus Adler, Dr. Max Radin, and, above all, to Professor Louis Ginzberg, who freely gave me their kind assistance.

¹ Of course we meet in the Bible such terms as עוֹלָל, טֵף, יוֹנֵק, יָלֵד. But these terms stand merely for physically immature persons, and do not stand for a class of individuals whose rights, duties, and responsibilities are different from those enjoyed by a grown-up person. These terms are never used in the Bible in connexion with phases of life that enter into the realm of law and responsibility. Quite in contrast is the use of the term קָטָן in Talmudic literature, where it denotes legal and religious prematurity. The terms קָטָן and גָּדוֹל in the Bible are merely relative, i. e. they denote a relatively younger and a relatively older person respectively. But they do not stand for the minor and the mature person as they are used in Talmudic literature. The terms נַעַר and נַעֲרָה stand for young persons, and have no reference to the minor whatever.

of society in Biblical times conducive to the formation of a code of laws dealing with the minor. For at that period the family and not the individual formed the social unit. The father was the head of the family, and had full control over it during his lifetime. Even the children of a mature age, as we shall see later, were subject to his power. The question of the amount of individual freedom to be enjoyed by the minor, which arises at a time when the individual forms the social unit, has no room when even the adult son is without individual rights and powers.²

We cannot accordingly expect to find special laws dealing with the minor. Instead, we find laws dealing with the son and the daughter. The family forming the social unit, and the father, the head of the family, being the important factor in the community, it was necessary to provide specifically for the extension of certain laws to the son and the daughter. The son and the daughter seem to be, as it were, in a state of tutelage, and are very often classed together with the proselyte, slave, widow, and orphan.³

Nevertheless, we find a few laws in the Bible, which, though not the result of a conscious treatment of the minor, pertain exclusively to the minor. Already at this early period, the emphasis which Judaism lays upon the duty of instructing the young, asserted itself. Again and again does the Bible command, 'Thou shalt teach thy children'.⁴ Sometimes, the instruction began on the

² Nowack, *Heb. Arch.*, 152, &c.

³ Exod. 21. 31; Deut. 16. 11, 14; Exod. 20. 10. The necessity of mentioning the orphan, the widow, and the proselyte is also due to the fact that they do not constitute heads of families, and would, therefore, not be thought of as possessing the religious status of the head of the family.

⁴ Exod. 13. 8, 14; Deut. 4. 10; 6. 7, 20-24; 22. 46.

father's own initiative,⁵ and, sometimes, it was to be given to the children as answers to their questions.⁶ The latter method usually accompanied the performance of certain ceremonies, the significance of which the children might desire to know.

The Bible also imposes on the father the duty of circumcising his son, and of thus uniting him with his God and his race.⁷ In memory of the first-born that were killed in Egypt, the Jews were commanded to redeem their first-born sons. That duty was, therefore, put on the fathers.⁸ No festivities seem to have accompanied either the circumcision or the redemption of the son, but a festivity of great importance must have taken place when the child was weaned.⁹

The rearing of the child usually devolved upon the mother. In large and well-to-do families, a nurse was taken for the children,¹⁰ and a teacher was hired for them.¹¹ The children in turn were to reciprocate this love by honouring and revering their parents.¹²

The emphasis the Bible lays on the instruction of children is well known. Even very young children were required to be present at the public reading of the Law in the seventh year.¹³ This had a double purpose: (1) that of the instruction of the children, (2) and of initiating them into Jewish traditional and ceremonial life. This is the only instance in the Bible where the minor is specifically mentioned with regard to the observance of a certain ceremony. It seems also that young children

⁵ Exod. 13. 8; Deut. 6. 7.

⁶ Exod. 13. 14; Deut. 6. 20-29.

⁷ Gen. 21. 4.

⁸ Exod. 13. 13.

⁹ Gen. 21. 8.

¹⁰ 2 Sam. 4. 4.

¹¹ 2 Kings 10. 1, 5.

¹² Exod. 20. 12.

¹³ Deut. 31. 12, 13.

were present at the public reading of the Law on many other important occasions.¹⁴

The question of supporting the children does not seem to have given much trouble in Biblical times. Every child lived with his father, and was supported, as a matter of course, in return for the services he rendered. The case was, however, different with the fatherless. They needed special protection. The orphan was, therefore, classed with the Levite, the widow, the poor, and the proselyte, or the stranger, persons who as well as the minor possessed no property, and, therefore, needed special protection. The fatherless was to share with the Levite, the stranger, &c., in the tithes of the third year,¹⁵ in the sheaves that have been forgotten,¹⁶ and in the single grapes and the small fruit that have been left.¹⁷ The Bible finds it especially necessary to warn against vexing the orphan, and against doing injustice to him.

Since the minor was not recognized as a class in Biblical times, we ought not to expect to find in the Bible the mention of a definite age to mark the attainment of one's majority. Yet there are enough data to show that the age of twenty was of great importance, and brought with it new responsibilities and privileges.

In the first place, its importance is to be seen in the political and civil life. One could not enter the military service before twenty.¹⁸ The census of the Israelites taken by Moses included only those who reached the age of

¹⁴ See Josh. 13. 35. According to the Rabbis, the term *תלמיד* includes also children who cannot understand what is read before them. Nevertheless, this practice served some purpose. It prepared the parents for the future training they were to give to their children (Yer. Hag. 1. 1; Babli, *ibid.* 3).

¹⁵ Deut. 14. 28-9; 26. 12.

¹⁶ Deut. 24. 19.

¹⁷ Deut. 24. 21.

¹⁸ Exod. 30. 14; 38. 26; Num. 1. 3-46; 24. 2, 4.

twenty.¹⁹ This age also brought certain religious rights. According to 1 Chron. 23. 24-7, priests and Levites entered into their service, at least during the second temple, at the age of twenty. This regulation was established in the time of David, though the Biblical law fixes sometimes twenty-five and sometimes thirty as the proper age for the beginning of the temple service.²⁰ The contribution of half a shekel for the sanctuary was imposed only on those who were of the age of twenty.²¹ The age of twenty also is an important division in the estimation of the different values of a person in the case of a vow to the sanctuary.²² Thus we see that the age of twenty played an important rôle in Biblical times, and we may properly call it the age of maturity or of majority.

So much for the minor in the Bible. A different picture of the minor is presented to us by post-Biblical literature. As Jewish life became more complex, and new institutions arose that were not known in Biblical times, the problem of the minor began to press itself more and more on the Jewish mind. It is then that the minor began to be dealt with as a special class, and that a prominent place was given to him in Jewish law and custom. But law and custom were not always stable. The law dealing with the minor frequently changed. To give a presentation of the treatment the minor received at the hands of Jewish law and custom as they developed in later Jewish life, and also to point out as far as possible the origin of certain developments, is the purpose of the following chapters.

¹⁹ *Ibid.*

²⁰ Num. 8. 23; 4. 1-4.

²¹ Exod. 30. 12-14; 28. 26.

²² Lev. 27. 3-8.

CHAPTER II. AGE OF MAJORITY

A. AGE OF TWENTY AS THE AGE OF MAJORITY.

WE have already seen in the previous chapter that in Biblical times, the age of twenty constituted the age of majority. Professor Ginzberg has called attention to the following instances in Talmudic literature where the age of twenty plays an important part.²³ Heavenly punishment is not inflicted for sins committed before one reaches the age of twenty.²⁴ No one can sell real estate before he is twenty.²⁵ No judge under twenty could pronounce sentence of death.²⁶ If one does not show any signs of puberty, he is, according to one opinion, a minor until twenty.²⁷ These instances are of course survivals of the Biblical times, in which the age of twenty was the age of majority. This is not the place to examine why the age of twenty has survived just in these points. Suffice for the present that we find in Talmudic literature certain callings in life depending on the age of twenty. This fact, together with the data mentioned above, prove clearly what we maintained before, that at an early period the age of twenty was the age of majority.

B. AGE OF PHYSICAL MATURENESS AS THE AGE OF MAJORITY.

But while the age of twenty as the age of majority is found in Talmudic literature as a survival, there looms

²³ See *Monatsschrift*, LVI, p. 300; Löw, *Die Lebensalter*, p. 157.

²⁴ Yer. Bik. II, 64; Sanh. 30 b.

²⁵ B. B. 156 a.

²⁶ Yer. Sanh. IV, 22 b.

²⁷ Nid. V, 9; Yeb. VI, 6; Tosef. Nid. 2. The Talmudic interpretation which maintains that he becomes of full age at twenty only when, in addition to the absence of signs of puberty, there is also the presence of signs of emasculation, is, as we shall see later, erroneous.

forth in the same source an age which we do not meet at all in pre-Talmudic literature. That age is the age of physical or sexual ripeness, which is gradually substituted for the age of twenty as the age of majority.²⁸

Physical ripeness, or the age of puberty, forms the age of majority also in old Roman law.²⁹ In the later Roman law, the age of puberty brings with it only certain rights and duties, but majority is attained at twenty-five.³⁰ But the ancient Roman age of puberty corresponds to the Talmudic age of puberty. Life in ancient Roman law is divided into two parts, that which precedes and that which follows the age of puberty. Those who do not attain the age of puberty are called *impuberes* and correspond to the Talmudic *Ḳeṭanim*; those who do attain it are called *puberes*, and correspond to the Talmudic *gedolim*.³¹ The old Roman law resembles the Talmudic law also in the fact that the female attains her age of puberty earlier than the male, and an individual physical examination is necessary for determining the age of puberty.

There are many physical symptoms which indicate approaching puberty. But the main criterion is the appearance of hair on certain parts of the body.³² The usual

²⁸ *Terumot*, I, 3; *Yebamot* 96 b; *Nid.* V, 9; VI, 11, 12; *Tosef. Nid.* VI, 2, 5, 7.

²⁹ See Löw, *Die Lebensalter*, p. 139.

³⁰ See Dropsie's translation of Mackeldey's *Roman Law*, p. 129.

³¹ See Savigny, *System*, vol. III, pp. 56, 109.

³² *Nid.* 47, 48. According to one opinion, it is possible for the other symptoms to begin to develop before any hair begins to grow, and, therefore, they are not counted upon in determining the age of puberty, while the opinion of the majority is that it is impossible for other symptoms to appear before any hair begins to grow, and, therefore, one attains majority with the appearance of these symptoms. Some scholars note also the physiological fact that the appearance of such symptoms is sometimes accelerated by the occupation and surroundings of a person. Female minors were

age at which symptoms of puberty appear is the twelfth year of a female and the thirteenth of a male.³³ Symptoms that appear before the ninth year are disregarded, between the ninth and the twelfth (and of course the eleventh of a female, a fact not mentioned in the source) are disregarded according to one opinion, while, according to another, they are an indication of approaching puberty.³⁴

If one does not show any symptoms after thirteen, he is considered a minor until the thirty-sixth year of his life.³⁵ After thirty-six, he attains his majority, even though he has no signs of puberty. These two laws hold good only when the person in question shows no signs of being a eunuch. If he does, he attains his majority at twenty, according to Bet Hillel, or at eighteen, according to Bet Shammai, even though he lacks the signs of puberty.³⁶

examined by women. But as women were not qualified to act as witnesses, their testimony with regard to the appearance of symptoms was therefore valid only when no important issues were involved (Nid. 48; Tosef. VI, 3).

³³ Nid. V, 6; Babli 45; Tosefta VI, 2.

³⁴ Nid. 46 a; Tosefta VI, 2. The early Amoraim also discuss whether the appearance of hair during the thirteenth year should be taken into account. Some scholars put it under the same status as the appearance of hair before the thirteenth, and declare that only the hair that appears on the first day of the fourteenth year is considered as a symptom, while others consider it an indication of physical maturity (Nid. 45 b, 46). The old view seems, however, to have been the latter, as can readily be seen from the Tosefta Nid. VI, 2, of which the Baraita discussed by these scholars must be an abbreviation. The explanation of the same Baraita given by those who maintain the other view is hardly satisfactory. The Baraita prefers the expression 'בן י"ג יום א' to the expression 'מי"ב שנה', because the last day of the thirteenth year ends the period during which the appearance of hair is doubtful. From the first day of the fourteenth, it is assumed that hair did appear.

³⁵ Yeb. 96 b; Niddah V, 9; Babli 47 b.

³⁶ *Ibid.* The laws of this paragraph are not expressed in the Mishnah,

Before twenty, though he shows signs of emasculation, a man is still a minor, if no hair appears.³⁷ If a eunuch shows a growth of hair at twenty, we assume that he attained his majority at thirteen.³⁸ The hair that begins to grow before thirteen does not make him of full age, even after he passed thirteen, and, therefore, if no other hair is to be found after he passed thirteen, he is still

but are maintained by the Amoraim, and are in keeping with their interpretation of the Mishnah. The physiological basis of these laws would be that the absence of signs of puberty at a late age, when there is no evidence that the individual is a eunuch, is due to a retarded development, and consequently the individual is still to be considered a minor. It is worth while, however, to speculate about the correctness of their interpretation. The expression *והוא סריס* in Nid. V, 9, which the Amoraim take to mean 'that he proved himself to be a eunuch', and to imply that otherwise he is still a minor, may also mean 'that he is considered a eunuch', and therefore of full age, because the lack of hair is in itself a sign of emasculation. If the following reading of the Tosefta is correct, it supports our view: *בן כ' שנה שלא הביא שתי שערות אע"פ שהביא לאחר מכאן הרי הוא כסריס לכל דבר בת כ' שלא הביאה שתי שערות, אע"פ שהביאה לאחר מכאן, הרי היא כאיילונית לכל דבר* (Tosef. Nid. VI, 2).

In the passage in Yeb. 80 other symptoms of emasculation are given, and, according to the Amoraic explanations, it is these symptoms and not the absence of hair that make us consider one a eunuch. This is, however, not evident from the passage itself. As a matter of fact, the passage seems to contain two different strata of laws, one beginning with *איוהו סריס*, and the other with *סמניו הן*. From this passage it seems that the absence of two hairs is the determining factor in declaring one a eunuch.

In speculating on this point, we should also keep in mind that at an earlier period, it could never have happened that one should be considered a minor until his thirty-sixth year. At the earlier period, when the age of twenty was the age of majority, the physical symptoms did not count. A knowledge of the physiology of those times, if it was different from ours in that respect, may help us to determine whether the view as obtained from the reading of the Tosefta or that of the Amoraim is correct.

³⁷ Eben ha-Ezer 155, 12. This, of course, is to be inferred from the time of twenty fixed in Nid. V, 9.

³⁸ This is so according to Rab., but not according to Samuel (Yeb. 80a).

a minor.³⁹ There is also a view that the first thirty days of the twentieth year count as a whole year, and, therefore, the laws that are to be applied when one reaches twenty, are applied also to the one who reaches nineteen years and thirty days.⁴⁰

C. THE AGE OF THIRTEEN AND THE BAR MIZWAH INSTITUTION.

From the data we have given in the last section, we see that it was the physical symptoms and not a definite age that ushered in the age of majority. But, as we have also pointed out before, the age of thirteen was the age at which signs of puberty usually appeared. Hence, when no serious issues were involved, one was considered of full age at thirteen, without undergoing a physical examination, on the assumption that signs of puberty have developed. Thus, the rabbinical scholars speak very often of the age of thirteen as being the age of majority, without referring at all to the signs of puberty, assuming that one possesses them at this age.⁴¹ This assumption is made by R. Hama b. Abba,⁴² when he says: 'Until thirteen years, the son is punished for the sins of the father, from now on, each one dies for his own sins.' This assumption also underlies the statement, 'At thirteen for the fulfilment of the commandments',⁴³ and the statement of R. Eleazar in Gen. r. 63. It is also because we act on this assumption, that we can determine ages which have to be counted backwards from the age of thirteen: such ages as when the minor

³⁹ Nid. 48 a.

⁴⁰ Nid. 47 b.

⁴¹ Abot 5, 21; Nid. V, 6; Tosef. Yom. Hak. V, 2; Nid. 48 a.

⁴² Midrash Zuta, Rut, ed. Buber, p. 47: Yalkut Rut 600.

⁴³ Abot V, 21.

is to enter the religious life, and when his vows begin to be valid. If we did not act on this assumption, these ages could never be determined. Raba goes further, and declares that we must act on this assumption, though it may lead to a rabbinical transgression (Niddah 46). In cases, however, which may involve serious consequences, and lead to transgressions of a Biblical law, a physical examination is necessary before we consider one of full age (*ibid.*).

The acknowledgement of one's attainment of majority, at the age of thirteen, on the assumption that he possesses the physical symptoms, developed into the Bar Mizwah institution.⁴⁴ How early it originated is still an open question. Löw maintains that it dates from the fourteenth century.⁴⁵ Other scholars trace it back to Talmudic times.⁴⁶

Löw holds that the Bar Mizwah was not only an innovation, but also a reform of the fourteenth century. The Bar Mizwah not only meant an introduction of a new festival with new ceremonies, but a substitution for the Talmudic physical examination in determining the attainment of the age of majority.⁴⁷ This is, however, erroneous. The Bar Mizwah did not abolish the requirement that signs of puberty must be present. It only implies the Talmudic assumption mentioned before, that one becomes physically mature at the age of thirteen. Löw is mistaken if he thinks that in Talmudic times every minor underwent a physical examination before being declared of full age.

⁴⁴ The title Bar Mizwah, given to one who attains his age of majority, is not to be met with earlier than the fourteenth century. Before that period he is called בר עונשין. See Löw, *Die Lebensalter*, 210.

⁴⁵ See Löw, *ibid.*, 210-217.

⁴⁶ *Jewish Encyclopedia*, s. v. 'Bar Mizwah'.

⁴⁷ Löw, 210.

As we pointed out before, even in Talmudic times, one attained one's majority at thirteen on the general assumption that he must have become pubescent at this age. On the other hand, in cases where important issues depend on the majority of the individual, i.e. where the acting on this assumption may lead to transgression of the law, as in the case of Mi'un or of the Levirate, a physical examination was required even after the Bar Mizwah institution had been introduced.⁴⁸ Thus the Bar Mizwah does not do away with the ancient physical examination.

What is uncertain is whether at an early period official recognition was given to the attainment of majority at the age of thirteen in the form of some sort of festival. If it was, it certainly lacked the main features of the later Bar Mizwah.⁴⁹ If there was any solemnization at all of the Bar Mizwah, it consisted merely of bringing the boy to the priest and the elders, 'for blessing, encouragement and prayer, that he may be granted a portion of the Law, and in the doing of good works'.⁵⁰ He probably also read the Torah, and his father pronounced the benediction, 'Blessed be he who freed me from the responsibility of this child'.⁵¹

⁴⁸ Eben ha-Ezer, 155, 12; 169, 10.

⁴⁹ The right to put on the phylacteries and be called to the Torah was enjoyed in Talmudic times even before he became thirteen (Tosef. Hag. 1. 2; Meg. 23 a; Tosef. Meg. IV, 11).

⁵⁰ See Soferim, XVIII, 5, with the corrections of the Gaon of Wilna.

⁵¹ Midrash Hashkem (see Grünhut's *Sefer ha-Likkutim* 1, 3 a).

The arguments, however, given by Dr. Kohler in his article on Bar Mizwah in the *Jew. Ency.* against Löw are not convincing. Of course, we must admit that at or about thirteen one became of full age at an early date. But there are no solid proofs for an early date of the Bar Mizwah rite.

The text in Masseket Sof. is corrupt, and is, therefore, not reliable. Josephus, in his *Vita* 2, tells only that he was known for his learning at the age of fourteen, but he tells nothing concerning the Mizwah rite.

Later, however, the Bar Mizwah rite assumed a more definite form, and developed into a significant institution. The Bar Mizwah is called up to the Torah.⁵² In some communities he is called up as Maftir. The father recites, silently the benediction, 'Blessed be he who freed me from the responsibility of this one'.⁵³ Some families celebrate the Bar Mizwah also by a banquet.⁵⁴ Bright boys deliver an homily usually of a very pilpulistic character.⁵⁵ In some communities the Bar Mizwah receives the blessing of the Rabbi.

The moment one becomes Bar Mizwah, he becomes responsible for his sins, and is obliged to observe the Law. While in post-Talmudic times the minor was prohibited from using the phylacteries, a prominent feature of the Bar Mizwah was his putting on the phylacteries.⁵⁶ In the seventeenth century the custom originated of having the minor put on the phylacteries a short time before

Gen. r. 63 must not necessarily be taken to speak of the father's benediction as an institution. It simply tells in a striking manner of the great burden of which the father is relieved when his son becomes of full age. (The burden is the responsibility that rests on the father for his minor son's sins. See Midrash Zuta, Rut, p. 47.)

The words תהלות יספרו (Magen Abot on Abot V, 21; Mezaref, p. 25) must not necessarily refer to any benediction. It may refer to the observance of commandments in general. The word הגדיל (see Midrash Hashkem in Grünhut's *Sefer ha-Likkutim*) does not necessarily refer to a certain day. Nor do the words 'ואומר ברכו את ד' (*ibid.*) refer to a definite day, as it is evident from the preceding words ברוך שמך בכל יום (*ibid.*).

⁵² This feature became prominent only when the Talmudic custom of calling the minor to the Torah became obsolete: see Löw, 211.

⁵³ This has its origin in Gen. r. 63, which, as was stated before, has nothing to do with a benediction. Later it was erroneously taken to be for one.

⁵⁴ See Yam shel Shelomoh on B. K. VII, 37.

⁵⁵ Löw, 215.

⁵⁶ See Orah Hayyim XXXV; Dar. Moshe, *ibid.*

he reached thirteen.⁵⁷ From now on, he can be counted as a member of a quorum.

He was entitled to these privileges on the assumption that at this age he already had the signs of puberty.⁵⁸ Otherwise, he would still be a minor. In case of *Halizah* or the *Levirate*, where the action on this assumption may lead to the transgression of a Biblical law, evidence of signs of puberty is still required.^{59, 60}

To sum up. There are enough data in the Bible and in the Talmud to show that at an early time the age of twenty was the age of majority. At a later time, it was superseded by the age of puberty. The age of puberty was originally determined by the presence of signs of sexual maturity. Experience had shown that these signs do not appear in all individuals at exactly the same time, and, therefore, a year was allowed for the variation. The earlier law, therefore, maintained that one became of full age, if the signs appeared at any time between the age of twelve and thirteen. The later Law, which deviated a little from practical life, limited the *terminus ad quem* to the first day of the fourteenth year. But one who reaches this age is assumed to possess the symptoms, and, therefore, becomes of full age, a physical examination being necessary only in special cases. The recognition of the attainment of majority at this age has developed into the Bar-Mizwah institution.

⁵⁷ Mag. Abr. XXXIV, 4.

⁵⁸ See Yam shel Shelomoh B. K. 37; Orah Hayyim 55, 5, note of Isserles.

⁵⁹ See Yam shel Shelomoh, *ibid.*

⁶⁰ For further information about the Bar Mizwah, see Mezaref 41; Responsa Maharil 51; Güdemann, *Geschichte des Erziehungswesens und der Kultur der Juden in Deutschland*, III, Vienna, 1888. Taylor, *Sayings of the Jewish Fathers*, 1897, p. 97.

D. AGES FOR DIFFERENT DEGREES OR STAGES OF MATURITY.

Besides the principal age of majority discussed in the previous section, there are different ages the attainment of which does not make the individual of full age, but marks certain degrees of maturity, gives the individual rights, and imposes on him duties not possessed by him before.

The age of seven marks a certain degree of maturity. At this age the minor acquires the right of entering upon transactions concerning moveable property.⁶¹ The female minor has, as it were, two ages of majority. The first one is the age of puberty (*na'arut*) corresponding to the age of maturity of the male, and is attained at the age of twelve. At this age, she is considered mature and enjoys, therefore, all the rights of an adult female, except that she is still partially subject to the power of her father.⁶² At her second age of majority (*bagrut*) which is attained at twelve and a half, she is entirely emancipated from the power of her father.⁶³

Then there are ages that depend on certain physical developments, which, however, are not indications of mental ripeness. A female at the age of three, and a male at the age of nine, attain a certain degree of sexual ripeness, and, therefore, those laws that obtain with certain sexual relationships are in full force when the minors of these respective

⁶¹ Git. 59a.

⁶² Nid. V, 7; Ketubbot 46a.

⁶³ *Ibid.* The Mishnah also gives three different physical symptoms characteristic of a female, corresponding to three different periods: (1) the period beginning with her birth and ending with the first age of majority; (2) with the first age of majority, and ending with the second age of majority; and (3) with the second age of majority, and further on.

ages are partners in those relationships. She can be acquired as a wife by the sexual act. Illegitimate intercourse with her brings on the wrongdoer all the punishments due to illegitimate intercourse with an adult female.⁶⁴ The same is true of the male of nine years. The Levirate performed by the sexual act is valid. The punishments that relate to illegitimate intercourse are inflicted on those that commit illegitimate intercourse with a minor of this age.⁶⁵

Certain degrees of maturity are also acquired by the attainment of certain degrees of mental ripeness. When a female minor has intelligence enough to take care of her bill of divorce, she can be divorced.⁶⁶ When a minor is mentally ripe enough to distinguish between a nut and a splinter, his action of acquisition is valid for himself but not for others. The marriage of a female minor at this age if the father is dead is valid to the extent that it requires at least the action of Mi'un to annul it. If he has sufficient intelligence to return an object given to him, he can also perform the action of acquisition for others.⁶⁷

An important age that depends on mental ripeness is the age at which the vows of the minor begin to be valid. The vows of a female after twelve, and of a male after thirteen, are valid even when they do not know to whom the vow is directed. But the vows of a female within her twelfth year, and of a male within his thirteenth year, are valid only when they have proven on a personal

⁶⁴ Nid. V, 4.

⁶⁵ *Ibid.* V, 5.

⁶⁶ Gittin 64 b. According to Rashi, she cannot be divorced before that age, even when her father receives the bill of divorce for her. According to R. Tam, she cannot be divorced before that age only when she herself receives the bill (see *ibid.*, Rashi and Tos.).

⁶⁷ *Ibid.*

examination to know to whom the vow is made.⁶⁸ According to one opinion, the Ḥalizah performed by a female at the age when her vows are binding, is valid.⁶⁹

Quite unsettled in Talmudic times was the age at which a female minor could exercise the right of Mi'un. According to one opinion, she exercises this power until two hairs appear, and, according to another, until the growth of hair is more marked.⁷⁰ If, however, she lived sexually with her husband after two hairs appeared, all agree that she loses the right of Mi'un. A controversy arose in the academy concerning the daughter of R. Ishmael who came before the tribunal weeping, and carrying her child on her shoulders. Some wanted to grant her the right of Mi'un. But finally a vote was taken, and it was decided that she loses the right with the appearance of two hairs.⁷¹ In the twelfth century R. Jacob b. Meir declared that since we are not skilful enough in this generation to detect the presence of two hairs, and since it is assumed that with her first age of maturity (age of twelve) this symptom appears, her Mi'un should be invalid after she reaches the twelfth year, even though we did not detect, on a personal examination, the appearance of two hairs.⁷²

On the other hand, certain rights can be acquired only at a late age. The power of buying and selling real estate can be attained only at the age of twenty.⁷³

⁶⁸ Nid. V, 6; see Tosefta, *ibid.* V, 15, 16, 17.

⁶⁹ Gittin 65 a, see *ibid.*

⁷⁰ Nid. VI, 2.

⁷¹ Nid. 52, see also Tosef., *ibid.* VI, 5, 6.

⁷² Nid. 52b; Eben ha-Ezer 155, 22.

⁷³ That one should have the power of purchasing movable objects at an earlier date is quite natural. As the Rabbis remarked, this is so because his subsistence depends on it. The minor could not get along if his

From the data in the last section we see that Jewish law with regard to age shaped itself on natural and psychological principles. It did not put down one fixed age as the only one that marks a change in a man's life. It recognizes a gradual development, gradual degrees of physical and mental ripeness, and as the minor is gradually attaining these degrees of physical and mental ripeness, he is gradually granted the various rights and powers.

CHAPTER III. DUTIES OF THE FATHER

A. SUPPORT OF MINOR CHILDREN.

(1) *Support of Minors up to the Age of Six.*

AS the title of this chapter indicates, there are duties in Jewish law to be fulfilled towards the minor children, incumbent only on the father, but not on the mother. The latter was just as helpless as the minor children themselves, and both of them were dependent on the will of the father. Nor was her status changed after the death of her husband, for while the minor children (sons, of course) became the owners of a part or of the entire estate of the father, she remained just as dependent as she had been before. This being the case, there could be no room in Jewish law for any discussion of the duties of the mother.

As was mentioned in the first chapter, we do not find in the Bible a provision imposing on the father the duty to support his minor children. Such a provision was

transactions of movable objects were not valid. But one must be more conservative, and have more experience with regard to buying real estate, and therefore this power with regard to real estate is acquired only at the age of twenty.

unnecessary. Parents supported their children as a matter of course. This parental function was deeply rooted in the life of the people as a moral duty, so that there was no necessity for it to be legally sanctioned.

In time, however, conditions changed. Persecution and poverty, as will be shown later, wrought havoc in Jewish life, so that parents refused to support their children, and cast them as a burden on the shoulders of the community. It was then that the question as to the legal duty of supporting the minor children began to form a subject of discussion in the rabbinical academies. The earliest trace of such a question is, as we shall see later, to be found in connexion with the posthumous duty of supporting the minor daughter. But as we have chosen to follow the order from the more usual and immediate to the less usual and immediate duties, instead of an order according to their chronological origins, we shall discuss at present the duty of the father to support his minor children under the age of six.

That the nursing or the suckling of a child is to be provided for by the father is evident from the Mishnah, which declares that the husband is to give to his wife an additional fee for the suckling of the child, if the alimony of the wife goes through the hands of another.⁷⁴ There enters, however, another element in this matter. Whatever may be the law with regard to the duty of the father to

⁷⁴ Ket. 69 b. It is true, however, that it may be asserted that the Mishnah does not speak of this additional fee as the fulfilment of a legal duty towards the child, but towards his wife. The Mishnah does not say that he has to pay the fee in case he is unwilling to support the child. It is probable that the Mishnah tells us merely that if the father wants to fulfil his moral duty to support the child, the wife is legally bound to the husband to do the suckling, and is to be recompensed for it.

support the minor children, the mother, as can readily be seen, from what was said at the beginning of this chapter, was free from such duties. It should, therefore, be understood that if there is a duty on the mother to suckle the child, it does not mean that she owes this duty to the child, but to the husband, this duty being one of many other duties which the wife undertakes to perform towards her husband at the time of marriage.⁷⁵

The suckling of the child being a duty toward the husband, the woman is relieved from this duty the moment the matrimonial relations between wife and husband cease. She is not, therefore, required to suckle the child when she is divorced.⁷⁶ If, however, the child is old enough to recognize the mother, and refuses to suck from another woman, the divorced wife is forced to suckle it, but the husband is to pay her for it.⁷⁷

The power of the Court to force the divorced woman to suckle the child likewise implies no maternal obligations. The life of the child being in danger, the mother is forced to perform this function as a humanitarian duty. Even a strange woman is forced to supply this necessity for the child when it refuses to suck from any other woman.⁷⁸

If the woman brought into marriage two maid-ser-

⁷⁵ Ket. 59b. This is so only according to the school of Hillel, but according to the school of Shammai there is no duty at all on the mother to suckle the child. Dr. Ginzberg explains this difference between the school of Hillel and the school of Shammai by the fact that the former school represented the wealthier classes, and had, therefore, the tendency to lessen the duties of the wife towards her husband, while the later school represented the poorer classes, and had, therefore, the opposite tendency.

⁷⁶ Ket. 59b; Tosef., *ibid.* V, 5. The case is, however, as we shall see later, different with a widow.

⁷⁷ *Ibid.*

⁷⁸ See Haggahot Alfasi, Ket. 59a; Eben ha-Ezer 82, 5, gloss of Isserles.

vants, she is relieved from suckling this child, just as she is thereby relieved from other duties which she owes to the husband, as cooking, washing, &c.⁷⁹

The time during which the child learns to recognize its mother is, according to Johanan, fifty days, and, according to Rab, three months. Samuel maintains that we cannot set a definite time for every child, but that each child is given a period according to its intelligence.⁸⁰

A widow is supposed to suckle the child.⁸¹ The reason for the difference between the divorced woman and the widow with regard to suckling the child, is, that since the separation between the former and her husband is usually due to ill-feeling between them, the woman may not be willing to perform this duty to her husband after the divorce has taken place. The separation between the widow and her husband, however, is due to a natural cause, so that the woman will be willing to assume that obligation.

A widow must not marry within twenty-four months after the child was born, for in case of her becoming pregnant, she may be rendered unfit to suckle the child, and the second husband may be unwilling to go to the expense of having him nourished by any other food.⁸²

⁷⁹ Ket. 59 b.

⁸⁰ Ket. 60 a. This is according to the tradition given by Rami the son of Ezekiel. According to another tradition, the time set by Samuel is thirty days (*ibid.*). The Yer. (Ket. V, 6) has in the name of Samuel three days. It seems that the reading of the Yer. is the correct one, for there would be no more reason for the surprise expressed in the Talmud at the thirty days period of Samuel than there is at the fifty days period of R. Johanan. And yet the Talmud is silent about the view of R. Johanan. But there is more ground for the surprise at the view of Samuel, when the reading is 'three days'.

⁸¹ Ket. 60; Yeb. 42 a.

⁸² *Ibid.*

She may not marry within twenty-four months, even when she procured a wet-nurse for the child, because it may happen that the nurse will change her mind, and return the child to the mother. If, however, it is certain that the nurse will not withdraw, the mother may marry as soon as the nurse is procured.⁸³

As to the duty of the father to support a child during the age that extends from the expiration of the suckling period up to a comparatively older age, nothing definite is found in the Mishnah. But R. Ulla Rabba declared at the gate of the house of the patriarch that, though they said, 'a man need not (legally) support his minor children', yet he must support them (legally) when they are very young.⁸⁴ The limit that separates those that are very young from those somewhat older is decided by the Rabbis to be six.⁸⁵

(2) *Support of Minor Children after the Age of Six.*

The duty of the father to support the minor children beyond the age of six (according to R. Ulla Rabba, as interpreted in the Babylonian Talmud), was first discussed in the Academy of Jamnia, where its head Rabbi Eliezer announced that there is no legal duty on the father to support his children.⁸⁶

⁸³ Ket. 60; Yeb. 42 a.

⁸⁴ Ket. 65 b. The Yerushalmi (Ket. IV, 8) has, however, the following reading: 'אמר ר' עולא מתניתא אמרה כן שיהא אדם זן את בניו קטנים'. No mention is here made of a difference between an older and a younger age. This point, as we shall see later, is of great importance.

⁸⁵ *Ibid.* The words beginning with *וער כמה* up to the word *מדקתני* is certainly an interpolation in the statement of R. Ulla. The Yerushalmi does not have it at all (see previous note).

⁸⁶ R. Eliezer mentions only the daughter, but he certainly refers to the

Afterwards, people began to take advantage of this absence of a legal restraint. After the Hadrianic persecutions, when conditions became very bad, fathers refused to support their children, and caused them to become a burden on the community. Therefore, the Court in Usha found it necessary to impose, by enactment, a legal duty on the father to support his children. This enactment was not, however, considered authoritative. Rabbi Joḥanan in a tone of depreciation says, 'we know the men who took part in the decision', implying thereby that they are not to be relied upon.⁸⁷

But while the Rabbis did not care legally to force a man to support his children, they took great pains to make him do so from moral motives. They declared that to support children is tantamount to doing continuous charitable acts.⁸⁸ Sometimes, they would denounce those who declined to comply with this moral duty. R. Judah would compare this man to a monster, and would denounce him in public, saying, 'A monster gave birth to children, and then he throws them on the community.'⁸⁹ Ḥisda would have this matter announced publicly, and would say, 'A raven wants her children, this man does not want them.'⁹⁰ Rabba would say to such a man, 'Are you satisfied that your children are supported by charity?'⁹¹ Rabbi Joḥanan said to a man whose name was Ukba, 'Wicked Ukba, support thy children'.⁹²

son also. He makes his statement in connexion with the support of the daughter, because one may think that she is more entitled to support than the minor son, either because of the fact that she possesses this right after the father's death, or because of the fact that there is greater disgrace for her to live on charity than for the son (see Ket. 49 a).

⁸⁷ Yer. Ket. IV, 8.

⁸⁸ Ket. 50 a.

⁸⁹ Ket. 49 b.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² Yer. Ket. IV, 8.

According to Rabbi Meïr, it is more virtuous to support the male than the female children, because in this way we enable the former to study the Torah. According to Rabbi Judah, the support of the daughter is more virtuous than the support of the sons, because it is a greater humiliation if the former go about begging.⁹³ Rabbi Johanan attributes no virtue whatever to the support of children, either of daughters or of sons.⁹⁴

The Talmud further declares that the scruples we have in legally forcing the father to support his children are only justified when he is poor. But when he is rich, we can force him to do it as a matter of charity.⁹⁵

⁹³ Ket. 49a. The Yer. Ket. IV, 8 reads as follows: **אֵית תַּנִּי תַנִּי הַבָּנִים עֵיקָר**. Evidently this corresponds to the two different opinions mentioned in Babli. The Yer. gives another reason for the opinion that lays more emphasis on the support of daughters, namely, that deprivation may cause them to lead an immoral life. This variation between Babli and Yer. is accounted for by, and also proves, the fact that the reasons for the different opinions were not given originally by the respective authors of these opinions, but by later scholars.

⁹⁴ Ket. 49a. Such an opinion is rather strange. There is no doubt that the words **לְאַחֵר מִיתַת אֲבִיהֶן אֲבָל בְּחַי אֲבִיהֶן אֵלּוּ וְאֵלּוּ אֵינָן נִיּוּזִימִים** in the statement of R. Johanan, as given by Babli, is a later addition, and does not come from R. Johanan. The original reading was **ר' יוֹחָנָן אָמַר חַיִּיב לְזוֹן אֶת הַבָּנוֹת**. This original reading is found in Tosef. Ket. IV, 8, and Yer. IV, 8, and is given in these two sources without any modification, in contrast to a statement which reads **מִצְוָה לְזוֹן אֶת הַבָּנוֹת וְאֵין צָרִיךְ לְזוֹר אֶת הַבָּנִים**. This fact shows clearly that the Yer. and the Tosef. understood R. Johanan to refer to the support of the daughter, not after the father's death, but while he is alive. The view of the Tosef. and of the Yer. is the correct one, for there is no reason why R. Johanan should have found it necessary to state that there is a posthumous legal duty on the father to support the minor daughter, since this law, as we shall see later, has been known already to be an old tradition, and was conceived of as being an enactment of the court. The Mishnah speaks of it as a well-known tradition (see Ket. 59 b).

⁹⁵ Ket. 49 b; see Tos., *ibid.*

During the absence of the father, as when he has gone to a distant place, his children are not to be supported from his property.⁹⁶ The fact that he did not advise the Court before he left to use his property for this purpose, is to be taken as sign that he is unwilling to support his children. According to R. Ulla Rabba, as interpreted in the Babylonian Talmud, this is true only with regard to children older than six. But children under six are to be maintained from his property.⁹⁷

Some scholars maintain that even children after six are to be supported from his property, if the father already supported them after they reached that age.⁹⁸ When, however, the father has become insane, so that we may not infer from his silence his unwillingness to have his children supported from his property, they are to be supported even after they reached that age.⁹⁹

The Academy in Usha enacted that if a father gives away all his property to his son, he and his wife are still to be supported from this property.¹⁰⁰ The Palestinian Talmud declares that the minor children of the donor are also to be supported from this property.¹⁰¹

The Palestinian Talmud also raises the question whether there is a duty on a man to support his grandchildren.¹⁰² It seems that the Palestinian Talmud comes

⁹⁶ Ket. 48 a.

⁹⁷ Eb. Haez. 71, 2.

⁹⁸ Ket. 48 a ; see Tos., *ibid.* Eben ha-Ezer, 71, 2, gloss of Isserles.

⁹⁹ *Ibid.*

¹⁰⁰ Ket. 49 b ; Yer., *ibid.* IV, 8. The Babli seems not to accept this enactment, while the Yer. is more favourable towards it.

¹⁰¹ Yer., *ibid.* The Babli mentions nothing concerning the minor children in such a case. This is due to the fact that the Talmud Babli does not agree with this enactment of Usa, and also to the fact which will soon be mentioned.

¹⁰² Yer. Ket. IV, 8. The same Pene Moshe makes the question י

to the conclusion that grandchildren differ from one's own children in that respect. The reason the Talmud gives is, however, not quite clear.¹⁰³

(3) *The Posthumous Duty of Supporting the Minor Daughter.*

The earliest trace of a conscious response to the question of supporting the minor children is to be found in connexion with the posthumous duty of the father to support the minor daughter. This was also a natural result of conditions. The property of the father was, in accordance with the Biblical law, inherited by the male

הכותב נכסיו לבניו refer to the passage beginning with the words בנים מה ה. But there is no reason for it. It can as well refer to the general duty of supporting grandchildren.

The Talmud Babli does not raise this question either. This is already the fourth point wherein a difference has been indicated between Babli and Yerushalmi (see ch. III, notes 84, 94, and 101). These four points lead to the conclusion that the Yer. differs with Babli in the general principle of supporting the children, and holds that the father is legally bound to support his minor children. R. Johanan is quoted in the Yer., as has been shown before (note 94), to have said expressly הובת לזון את הבנות. This statement, we maintained (*ibid.*), refers to the support of the daughter while the father is alive. According to the Yer., R. Ulla makes no difference between children under the age of six and children above that age. His statement, as the Yer. has it, שיהא אדם זן את בניו קטנים, refers to minor children in general. The fact that the Babli likewise fails to mention anything concerning the support of the minors when the father has given away his property to his son, or to raise the problem as to the support of the grandchildren, proves, and at the same time is explained by, this difference between Yer. and Babli concerning the support of minor children.

¹⁰³ Yer., *ibid.* The statement בני בנים קצפה עליהן ירושת תורה is evidently placed in opposition to another opinion, which would put the grandchildren on the same level with one's own children. But the reason supposed to be contained in the statement, as to why they should not be placed on the same level, is not quite evident. The explanation given by the Pene Moshe is not satisfactory.

children, and the female children were left at the mercy of the male children. Should the male children refuse to support their sisters, the latter would be rendered entirely helpless. Therefore, it was found necessary at a very early time to make it a provision of the marriage contract (Ketubbah) that in case the husband dies, the female orphans should be maintained from his estate until they get married.¹⁰⁴ This provision must not necessarily be written down, for it is binding on him, not by the contract in which it is entered, but by virtue of its being a court enactment which one tacitly accepts at marriage.¹⁰⁵ This, as we shall see later, was a great reform, for it, sometimes contrary to the Biblical law, makes the female instead of the male children the real heirs of the father's property.

That this was a very early enactment can be seen from the fact that the Mishnah does not speak of it as an innovation, but as an old tradition.

The support of one's daughter out of his property after his death is not the fulfilment of an obligation towards his children, but towards his wife. The daughters derive this right through the expressed or implied contract given to the mother. That this provision should be looked upon as imposing on the father a duty not towards the children, but towards the wife, is due to the fact that it was she primarily that suffered when her daughters were rendered helpless by the death of her husband. Her own condition was deplorable, and she, not less than the daughters, was dependent on the good will of the sons. Her struggle for existence became still severer by the lack of a solid basis for the support of the female orphans. But in time many enactments were made for the amelioration of the condition

¹⁰⁴ Ket. IV, 12; Gem., *ibid.* 52 b.

¹⁰⁵ Ket. 68 b.

of the widow (see Ketubbot 4. 12). But she would certainly not have been fully relieved, had the orphaned daughters not been provided for. The next step then was to remove this disturbing element, and to give legal protection to the orphaned daughter. Thus it was that the duty to support the daughter was classed among the duties of the husband towards his wife. We are, however, justified in treating it here, since the female children are the direct beneficiaries of this duty.

In harmony with the conception concerning the support of the daughter outlined in the last paragraph, the law states that if the parents enter into marriage with the understanding that the father does not take upon himself this obligation, the daughter does not possess this right. Had the support of the daughter been the exclusive right of the children, the mother would never have been able to deprive them of it. The mother possesses this power only because she herself was primarily the person in whose favour the enactment of 'supporting the daughter' was established. The daughter, however, cannot be deprived of her right of support by a will in which the father objects to the use of his property for that purpose (Ketubbot 68).

The time during which the fatherless female child was to be supported from the inherited property of the males, lasted, according to the terms of the provision, to her marriage. It does not seem that, originally, the female children lost this right with the attainment of majority, if such a thing as becoming of full age at the age of twelve or twelve and a half was known in that period at all. If the introduction of such an institution was at all necessary, it was so that it might serve the female orphan during the time when she had no other source of income, and that was

before her marriage. After twelve and a half, she was as helpless as she was before. Besides, the Biblical law knows no other changes in the life of a female except that caused by marriage, and, therefore, we are justified in assuming that the early law with regard to the support of the orphan daughter was in keeping with this Biblical law, and especially so, when it is corroborated by the wording of the provision.

Later, however, scholars declared that the female orphan loses this right as soon as she reaches the first age of majority (the age of twelve and a half), even though she is not married.¹⁰⁶ She also loses this right when she becomes betrothed.¹⁰⁷ According to some scholars, this is so even though she is under twelve. According to others, she loses this right only when she is betrothed while she is a *na'arah*. Still, others maintain that this law is to be applied only when she became betrothed without the consent of her brothers, but not when she obtained their consent.¹⁰⁸

The support of the female orphan includes food, garments, and a dwelling.¹⁰⁹ This provision, being the result of a contract, is to comply with the laws regulating all other forms of contractual obligations, and gives, therefore, the court the power to draw the means of support only from real estate or immovable property. The Talmud mentions the view according to which the female orphan

¹⁰⁶ Ket. 53 b, 68 b; Tosef., *ibid.* IV, 17; Yer., *ibid.* XII.

¹⁰⁷ Ket. 53 b; Eben ha-Ezer, 112, 3. The reason for the enactment concerning the support of the female orphan is that she may not become helpless, and go around begging. But now the bridegroom will not let her go around begging, and will support her.

¹⁰⁸ Eben ha-Ezer 112, 3.

¹⁰⁹ *Ibid.* 112, 6.

should be supported also from movable property.¹¹⁰ Yet this view was not accepted by the majority of scholars, and in spite of the fact that it was maintained by so eminent an authority as Raba, the final conclusion is that this support cannot be drawn from movable property.¹¹¹

Yet this limitation was not fully in force. In practice, many Rabbis attempted to disregard it, and were withheld only by the interference of other Rabbis. Practical life demanded that this limit should be disregarded. A case came up before a Rabbi, who out of pity wanted to have the expenses of support covered from movable property, as the orphans possessed no real estate. But he was prevented by another Rabbi who was afraid that this usage might become a general law.¹¹²

Finally, however, conditions changed, and the possession of real estate ceased to form an important feature in the life of the people. As a result, the law limiting the payments of the Ketubbah and its contents, including the support of the daughter, to immovables, defeated the very purpose for which the Ketubbah contract was established. The Geonim enacted that the payments of the Ketubbah and all that goes with it should be defrayed even from movable property.¹¹³ Thus the orphan daughter secured another privilege which tended to her protection and general welfare.

If the property left by the father is not sufficient for

¹¹⁰ Ket. 50b.

¹¹¹ *Ibid.* 50b, 51a.

¹¹² *Ibid.* 50b.

¹¹³ Originally the Gaonic enactment referred to the Ketubbah proper (the amount of money the wife is to get after the death of her husband, or at the time when she is divorced). But later authorities interpreted it as having the same force for all other contractual obligations that go with the Ketubbah. There are, however, other authorities who do not accept this interpretation (see Tos. Ket. 51a; Eben ha-Ezer 112, 7).

the support of both the male and female orphans, then the whole property should be given away to the females.¹¹⁴ This is already the climax of the reform introduced concerning the support of the female orphan, for in this instance the females become the practical heirs, contrary to the Biblical law, which declares that inheritance is the exclusive right of the males.^{115, 116}

This law is to be applied only when the property consists of real estate. When it consists of movable property, the female has no more privileges over it than the male, for the Gaonic enactment that the female minor be supported from movable property, gave to the female a claim only equal to, but not greater than that of the males.

The Court is to prevent the males from selling any of the inherited property, even when there is property enough to maintain all the children.¹¹⁷ The support of the daughter takes precedence over the rights the sons have with regard to the Ketubbah of their mother.¹¹⁸ If there are both minor and adult females, we do not set apart an amount for the support of the minors, and then divide the rest equally among the daughters. The division is to be made of the whole amount.¹¹⁹

The Talmud is not decisive as to whether the rule that

¹¹⁴ Ket. 108 b.

¹¹⁵ It is true that, theoretically, the males are still the heirs, and the females become the possessors of the property only through a contractual obligation. This well illustrates the general principle of the development of Jewish law. While no law is directly abolished, means are found by which these laws are practically abolished.

¹¹⁶ Nor was this reform introduced without a protest. Admon raised his voice against it (Ket. 108 b).

¹¹⁷ Eben ha-Ezer 112; Ket. 43 b.

¹¹⁸ *Ibid.* 112, 17.

¹¹⁹ B. B. VIII, 8.

the daughter is to be supported extends to the following cases: (1) the minor daughter who has annulled by Mi'un the marriage contracted for her by her brothers or by her mother;¹²⁰ (2) the daughter who is the issue of a rabbinically prohibited marriage;¹²¹ (3) the daughter that was born while the parents were betrothed;¹²² (4) and the daughter born to him as the issue of violating her mother before marriage.¹²³

B. EDUCATION.

(1) *Instruction.*

As we have seen in the first chapter, there is already in the Bible a provision, imposing on the father the duty of instructing his children. As a matter of fact, the duty to teach the Torah is not confined to one's own children. A man is morally bound to teach the Torah even to his neighbour's children. Yet the duty to teach one's own children takes precedence over the duty of teaching his

¹²⁰ Ket. 53 b. The doubt is due to the fact that a marriage invalidated by Mi'un may lose the status of a marriage altogether.

The solution of this problem may perhaps depend on whether we accept the attitude of Rabbi Eliezer or Rabbi Joshua with regard to Mi'un (see Yeb. 108 a).

¹²¹ Ket. 53. In this case the mother does not possess the right to the Ketubbah, and consequently the daughter may lose her right to support which forms a part of the Ketubbah. According, however, to the conception that the enactment of supporting the daughter tended to give a new right to the mother, the daughter in this case should not be supported. But certainly the conception of the enactment acquired in time new meanings, and the support of the daughter came to be looked upon as being a right of the daughter independent of her mother.

¹²² Ket. 54 a.

¹²³ *Ibid.* In this case also the mother whom the seducer marries is deprived of the Ketubbah, and consequently the daughter may lose her right also.

grandchildren, and the duty to teach his grandchildren takes precedence over the duty of teaching other children.¹²⁴

This Biblical provision reflects a period when the children received instruction personally from the father, and no teachers existed for that purpose. Consequently there was no necessity of providing for the expense of the schools.

Later, when Jewish life became more complex, schools arose.¹²⁵ The teacher was not paid for the instruction proper, for according to Jewish law one must not take reward for religious instruction.¹²⁶ The reward that he received was merely compensation for the time that he spent in teaching the children, or for the benefit that accrued to the children from their teacher's care.¹²⁷ The expense of the school was covered by the parents of the pupils.¹²⁸ Jewish law decides that we may force a man to hire a teacher for his children, but not for the children of his neighbours.¹²⁹ This legal duty is enforced as far as instruction in Bible is concerned. But we may not force a father to hire a teacher to instruct his children in advanced studies, such as Mishnah, Halakah, &c.¹³⁰

In the absence of the father, the Court has a right to draw from his property the expenses for the instruction of his children.¹³¹ The father has a right to dedicate his means for his own instruction in preference to that of his son, if the means are not enough to cover the expenses of instruction for both. If the son is more able than the

¹²⁴ Kid. 30 a ; Yoreh Deah 245, 3.

¹²⁵ According to Krauss (*Tal. Arch.*, III, 199, &c.), this took place about 130 B. C. See also B. Batra, 21 a ; Jer. Ket. VIII, 11.

¹²⁶ Ned. 36, 37 a ; Lev. r. 31.

¹²⁷ *Ibid.*

¹²⁸ See Krauss, *ibid.* vol. III, p. 199, &c.

¹²⁹ Yoreh Deah 245, 4.

¹³⁰ Ned. 36, 37 ; Kid. 30 a.

¹³¹ Yoreh Deah 245, 4, gloss of Isserles.

father, and will make more progress in his studies than the latter, then the son's instruction takes precedence over that of the father.¹³²

The Rabbis did not fail to impress the people with the importance of this duty by many moral precepts. The teaching of Torah to one's son, they declare, is like receiving it on Mount Sinai.¹³³ The one who teaches Torah to his son is as one who teaches it to all his descendants.¹³⁴

(2) *Initiation into the Religious Life.*

It is the duty of the father also to initiate his son into the religious life. We have already shown before that it is the duty of the father to instruct his minor children. The provision for this duty may not be due so much to instruction being a means by which we impart knowledge to the young, as to its being in itself an important factor in the religious training of the young.

As for the practical observance of the religious ceremonies and institutions, the father is supposed to recite with his son, as soon as he is able to speak, the first verse of Shema',¹³⁵ to buy him a Lulab as soon as he is able to use it, to buy him phylacteries when he is intelligent enough to take care of them,¹³⁶ to have him sit in the Sukkah, when he is no longer dependent on the mother.¹³⁷ Shammai, however, was more strict with the last point. He uncovered the ceiling, and put shrubbery above the bed, where the new-born child lay.¹³⁸

In connexion with this section, we may also mention the duties of the father to have his son circumcised,¹³⁹ and

¹³² Kid. 29 b; Eb. Haez. 255, 2.

¹³³ Kid. 30 a.

¹³⁴ *Ibid.* 33 a.

¹³⁵ Tosef. Hag. I. 2; Sukkah 42 a.

¹³⁶ *Ibid.*

¹³⁷ Sukkah 28.

¹³⁸ *Ibid.*

¹³⁹ Tosef. Kid. I; Gemara, *ibid.* 29.

to redeem him from the priest, if he is the first-born. If the father is himself the first-born, and his means are not sufficient for the redemption of himself and his son, the father is to use the money for his own redemption. Rabbi Judah differs with this view, and maintains that the duty of redeeming his son takes precedence over the duty of redeeming himself.¹⁴⁰

(3) *Secular Education.*

The duty of the father to educate his son is not confined to religious matters. The father is to lay down the basis for the minor's future material welfare as well. He is supposed to teach him a trade by which he should be able to subsist. Rabbi Judah remarks, the one who does not teach his son a trade is as one who teaches his son the art of highway robbery, for not being provided with a means of subsistence, the son will be forced to live on crime. Some Rabbis also include among the duties of education that of teaching his son how to swim.¹⁴¹ There are traces in the Talmud which show that during the period of the second temple fathers began to instruct their children in Greek Studies, an inevitable result from the Greek influences under which the Jews came (Soṭah 49). When the war between Aristobulus and Hyrcanus broke out, the study of Greek subjects beside the Greek language was prohibited. The Patriarchal family, however, because of its close relationship with the government, was allowed to continue instructing its children also in the other Greek studies (Rashi, *ibid.*).

(*To be concluded.*)

¹⁴⁰ Bekorot VIII, 6 ; Gemara, *ibid.* 49.

¹⁴¹ Tosef. Kid, I, 11 ; Babli, *ibid.*, 29 a.

THE PROBLEM OF SPACE IN JEWISH MEDIAEVAL PHILOSOPHY

BY ISRAEL ISAAC EFROS, Lynn, Mass.

I TRUST that the term 'Jewish Philosophy' does not require any apology; indeed, I should owe the reader a greater apology were I to attempt to give any. The famous or infamous indictment of Renan¹ that the Jews are destitute of any philosophic talent is best refuted by expository works which bring to light the depths of Jewish thought. The refutation was begun by Solomon Munk, and is still continued by every monograph that has appeared on the subject. As far as the problem of space is concerned, a problem that has baffled human thought ever since the days of Zeno of Elea, I hope that the subsequent pages will serve as a testimony of Jewish profoundness of thought and Jewish comprehensiveness of the grave antinomies that this difficult problem presents.

The scope of this work is limited, as the title indicates, to Mediaeval Jewish Philosophy, i.e. to that epoch in Jewish thought which was inaugurated by Isaac Israeli of Kairwan, an older contemporary of Saadya, and culminated in Don Isaac Abrabanel—a period of five centuries least familiar to the general student of philosophy, but which produced the choicest fruits of the maturing Jewish intellect. I am aware of the abundance of ideas relative to the problem of space which are harboured in the

¹ See his *Histoire des langues sémitiques*, I, 1.

Talmudic and Midrashic literature ; but their influence on the philosophy of the period under discussion is, as far as our problem is concerned, of no great importance, and is therefore omitted. For a similar reason I shall not deal here with Philo's views on space,² or, on the other side, with the views of Spinoza and others, especially our great contemporaries Hermann Cohen and Henri Bergson. Nevertheless, should the reader resent the limitations that the term 'Mediaeval' imposes, I shall attempt some day to resume the discussion and deal with those views that are here out of place.

INTRODUCTION.

I. On the surface, the idea of space is comparatively simple and intelligible. It is the idea of extensity of things, the idea of an external world that is not a mere pin-point, all the parts of which being coalesced and compressed to form a non-magnitudinal and indivisible unity, but stretched out and extended around us, all the parts of which are lying *side by side* of one another, and thus capable of being measured. We perceive this extensity of things and the 'alongsidedness' of its parts, by our visual and tactual and muscular senses. When we move our eye to circumspect a landscape, we have a sense of its range or extensiveness. When we lay our hand over this desk, we have a sense of a greater area than when we lay our hand over a pin-point. And when we furthermore move our hand so as to describe a circle, we feel a vastness around us. And now when we gather our perceptions of extended objects, and employ the method of generalization and abstraction, we arrive at

² As for Philo's views on space, the reader may find something in Leisegang's *Die Raumtheorie im späteren Platonismus* (Weida i. Th.: Thomas & Hubert, 1911), but the account is by no means satisfactory.

the concept of extensity occupied or not occupied by concrete objects—the concept of pure space.

Yet when we come to analyse this common conception of space we find ourselves beset with puzzling problems and baffling antinomies. The notion of space, I said, lies in the alongsidedness of parts. But those parts themselves in order to be perceived must be composed of smaller parts, and so on; since the perception of any extended quantity involves a perception of parts. But what of the tiniest speck, the *minimum sensibile*, in which no parts seem to be present; how is it possibly perceived? And if that is true, every body is composed of an infinite number of particles, or, in other words, every finite object around us, from the mountain height to the grain of sand, is really infinite. Thus an ant moving over a blade of grass is moving over an infinite, and when you have moved over from one corner of the room to the other, you have completed an infinite series of points. All of which is absurd.

Leaving the question whether space is infinite in division, we may ask whether space is infinite in extent. We conceive a thing when we know it or seem to know it definitely, while infinity carries with it an indefinite and indeterminate element, which admits of no conception. A definite knowledge of a thing implies the ability to compare it to others and distinguish it from others. But the infinite is incomparable and indistinguishable. Yet, on the other hand, if space is finite and bounded, the question is: By what is it bounded? What is beyond its boundary? And what if a thing were to be carried beyond the realm of space; would it shrink into nothingness?

One more question: Is space itself material or immaterial? It could not be material, for a thing could not

occupy another unyielding material thing without violating the law of impenetrability. If immaterial, what is it? What is meant by an immaterial something existing in the external world? Perhaps it is not an external reality. Perhaps it is a mere mental illusion, one of those illusions with which the mind is wont to deceive mankind. But is it conceivable that the objective reality is unspatial, that it has no magnitude whatsoever, that this vast universe with its stars and planets is really a mere geometrical point located nowhere except in the mind of the mathematician? If space is an illusion, why cannot the elephant escape through the key-hole? To make space mental does not make matters more conceivable.

Such are the difficulties which present themselves in connexion with the notion of space. The deeper the mind delves into the problem, the greater the tangle. It is one of the sphinxes in the deserts of thought. From the dawn of speculation we find space to be one of the most prominent objects of investigation; Zeno, Plato, and Aristotle bent their great intellects on the solution of space; colossal systems of science were reared on the notion of space. Yet the meaning of space has remained a mystery till the present day. Indeed, the difficulties seem to increase with the time.

It would be preposterous of course to claim that the Jews were cognizant of all these difficulties that the modern era has introduced. If we turn to examine the views on space maintained by the two greatest of Greek thinkers, who had such an enormous influence on Jewish thought, we will get a notion of the type of problems that we will have to deal with in the following chapters. In addition, it will present us the sources and the starting-point for the views that are to be discussed in this study.

PLATO'S CONCEPTION OF SPACE.

II. Students of Plato are not in agreement as to his view on space. Some maintain that in Plato's conception space is the *primaeval* matter, the original substrate which was fashioned by the Demiurgus into all perceptible objects, that it is the raw material out of which the great artisan created all things. In support of this interpretation they fall back upon Aristotle, who in his *Physics*, IV, 4 remarks as follows: 'Hence also Plato in the *Timaeus* says that matter and a receptacle are the same thing. For that which is capable of receiving and a receptacle are the same thing.' Thus Aristotle makes Plato—and who would understand Plato better than his illustrious disciple?—identify space with matter, pre-existing and receiving all created things. Hence also all mediaeval philosophers unanimously assumed that Plato affirmed the eternity of matter. On the other hand, there are many scholars who claim that Aristotle misunderstood Plato, and that according to the latter space and matter are not identical, but two distinct and separate beings.³

Now, in favour of the former view, the following arguments are generally adduced. Plato speaking about the third *γένος*, the abiding substrate in the incessant mutation of phenomena, compares it to the gold that is moulded into all sorts of figures, to the wax that is impressed by the seal.⁴ The elements, fire, air, water, earth, are not four varieties of Being, four different essences, but mere states or modes of one sensuous mass. 'Fire is that part of her nature which from time to time is inflamed, and

³ For a detailed bibliography of the two views, see Zeller's *Plato and the Older Academy*, ch. VII, notes 18, 20, and also his *Platonische Studien*, 212, 222.

⁴ *Tim.*, p. 50.

water that which is moistened, and that the molten substance becomes earth and air in so far as she receives the impressions.'⁵ Evidently Plato had in mind a sensuous ground-work of all existence. Besides, it would be inconceivable to reduce all things to an incorporeal essence or mere space. Plato, it is true, characterizes the four elements according to geometrical solids consisting of nothing but triangular surfaces.⁶ Zeller points out this latter Platonic theory as a decisive proof against the theory of corporeal primary matter.⁷ But when Plato maintained that 'every solid must necessarily be contained in planes', he did not mean that they are *composed* of planes and nothing else. He did not mean to reduce this solid world to an empty geometrical structure, to a mere house of cards. A thousand planes do not make an actual solid. But it seems that Zeller here lost the thread of Plato's argument. Up to the middle of p. 53 Plato was discussing the three-fold classification of Being, and particularly the material substrate of all things, that indeterminate mass existing before the creation, in which 'fire and water and earth and air had only certain faint traces of themselves, and were altogether such as everything might be expected to be in the absence of God'.⁸ And now Plato commences a description of the process of creation proper, the process of formation of the universe. I mean, putting form to the primordial chaotic matter and unfolding its dormant elements." And it is here in the discussion of the formal

⁵ *Tim.*, p. 51.

⁶ *Ibid.*, p. 54.

⁷ Zeller, *Plato and the Older Academy*, VII.

⁸ *Tim.*, 51.

⁹ Νῦν δ' οὖν τὴν διατάξιν αὐτῶν ἐπιχειρητέον ἐκάστων καὶ γένεσιν ἀήθει λόγῳ πρὸς ὑμᾶς δηλοῖν. *Tim.* 53 b. The word *diataxis* Jowett translated by 'disposition', which may suggest that Plato sets out to discuss the essence

aspect of the universe that the description of the geometrical figures comes. Thus, things were not *made of* but *according to* plans, surfaces, and space is not the material but the formal cause of all things.¹⁰

To come back to our main discussion, another argument might be presented in favour of the materialistic view of space. In describing the primordial receptacle, the matter of generation, he remarks 'that if the model is to take every variety of forms, then the matter in which the model is fashioned when duly prepared, must be formless, and the forms must come from without' (*Tim.*, p. 50). Now it is conceived that Plato believed in the primordial existence of an absolutely formless mass which was informed from without like the wax by the seal. The modern man can hardly conceive matter and form being separate: this is because his accumulated experience leads him to be cautious in forming his cognitions, and not to attempt to leap over the circle of phenomena. The ancients, on the other hand, were inexperienced, youthful, rash, and ready to objectify and hypostasize any idea that presented itself to their premature minds. It is only the particularistic view of mankind, i.e. the view of man as separate

of things, but a more faithful rendering is 'arrangement', which fits better with the line of argument.

¹⁰ Indeed it is highly probable that even the Pythagoreans, who held that number is the principle of all things, did not hypostasize it, did not consider it the essence and substance of things, but rather their formal element. Aristotle, in his *Metaph.*, I, 2, 5; XIV, 3 asserts that the Pythagoreans considered numbers to be things: and in *Metaph.*, I, 6 he remarks that they are prototypes of things. Zeller (see his *Greek Philosophy to the time of Socrates*, I, p. 369) lays stress on the first statement, and explains that they are also prototypes in the sense of law, but many other students of ancient philosophy support the latter statement of Aristotle to the exclusion of the former. See Ritter, *Geschichte der alten Philosophie*, IV, ch. 2.

individuals, that makes Socrates and Plato ancient; a truer view is the general and evolutionary one which considers John Locke and Immanuel Kant as ancient, and Socrates and Plato as youths wantoning with abstractions and mere ideas. Plato particularly had that tendency to objectify and to hypostasize logical realities. One can therefore easily grasp Plato's assumption of the coalescing of two independent elemental realities, form and matter thus producing all things. But one cannot conceive how Plato would make empty space as the universal substratum and at the same time insist that the form should come from without. For if form here means anything, it means certain limitations of magnitude. This body has a cubical form, another spherical and still another oval. But magnitude means extension, and to speak of formless space is to speak of an unextended space or of a non-spatial space, which is absurd.¹¹ And it is equally absurd to insist on having the form come from without, for by definition form can come from space only.¹²

So much for the corporealistic view of Plato's conception of space. On the other hand, Plato also speaks of space in a manner that entirely excludes all notions of corporeality. He defines it in the *Tim.* 52 as the 'home for all created things'. By 'created things' one naturally understands concrete objects composed of matter and form; and Plato

¹¹ It is impossible to evade the argument by reading into Plato Aristotle's definition of form, *λόγος τῆς οὐσίας*. The analogies that Plato finds to Form in the seal impress on the wax and in the transient shapes of the gold, obviate such an interpretation.

¹² Perhaps a similar objection can be raised against formless matter, but we must not forget that the doctrine that extension constitutes the very *essence* of material things was not yet fully realized in the days of Plato. The atomists, for example, believed in material atoms which were at the same time invisible.

defines space as outside of them, as their home. Space then, according to Plato, must be immaterial. Furthermore, he maintains that this third nature 'is eternal, and admits not of destruction' (p. 52). Now in p. 28 he had laid down a rule that 'that which is apprehended by intelligence and reason is always in the same state; but that which is conceived by opinion, with the help of sensation, and without reason, is always in a process of becoming and perishing, and never really is'. In other words, things material are destructible, and things spiritual are eternal; and since space is according to Plato eternal, it cannot be corporeal.

These are the two views of the Platonic conception of space, but it seems to me that either of these two views attaches itself to one particular passage in the *Timaeus*, and does not do full justice to the argument as a whole. It seems to me that the adherent of either view tears passages out of their context, and hence arrives at such contradictory results. Hence it is of paramount importance to analyse very carefully the whole development of the argument. But first let me point out a curious and suspicious contradiction in Plato. First, it is to be noticed that from p. 49 to p. 52, where he introduced this third *γένος*, this 'receptacle, the matter of generation', and where he discusses it rather in detail, he does not mention even once the word space or its equivalent (*χώρα, τόπος*), but in p. 52 he introduces again a third *γένος*, and there he refers constantly to space and no longer to any 'receptacle'. Is it not curious? On further inspection, the matter becomes more interesting. In p. 52 he describes space as eternal, indestructible, 'perceived without the help of sense, by a kind of spurious reason'. Now turn

to pp. 49-52, and here he never mentions that the receptacle is eternal. True, it is spoken of as 'always the same', but the expression seems to have a rather relative value. It is always the same while the images and the forms that it assumes are coming and going, transient, brief, and fleeting. It is the abiding groundwork of all transitory things. Yet he does not say that it is in itself, absolutely speaking, eternal and indestructible. Thus it is strange that the attribute of eternity, so emphatically stated with reference to space (p. 52), is entirely overlooked in the case of the receptacle (pp. 49-52).

The second characteristic of space, that it is perceived without the help of sense, by a kind of spurious reason, in a dreamlike manner, is also not clearly stated in the case of the receptacle. He describes it as 'an invisible and formless being', and is 'most comprehensible' (p. 51), and he maintains that it is known through a consideration of the fleeting images. The meaning then is clear. We cannot perceive the receptacle, for it is formless. When I direct my gaze at the tree, I do not see the thing in itself, I see the form of the tree. Only its externality is revealed to my senses. Sensation then has to do with the forms of objects, not with the objects *per se*. Hence one may naturally expect that the receptacle which is formless should not be perceptible. How then is the thing known? The answer is: the sensation of the transitory and fleeting object leads the mind to assume an abiding groundwork, a receptacle. Hence the latter is known empirically, and, strictly speaking, adhering to the Platonic terminology, we have no knowledge of space but 'right opinion', for every empirical cognition is a mere opinion. And yet, in p. 52, Plato maintains that space is

known by reason, though a spurious one, and that it is not at all an empirical concept.¹³

Thus the whole matter is very puzzling. Is Plato contradicting himself in such close juxtaposition, or is the receptacle one thing and space another? If we now proceed to a general analysis of Plato's argument in the *Timaeus*, I think the puzzle will be solved.

After an invocation of the gods, Timaeus, the natural philosopher, begins the story of creation. There are two natures in the universe, Being and Becoming, the permanent and the mutable, the eternal and the destructible. Everything that was created has had a design and realizes a purpose. This idea is fully amplified and elaborated in some detail. But this represents only one view of creation, namely, that of the creator. And so at the end of p. 47 he remarks: 'Thus far in what we have been saying, with small exception, the works of intelligence have been set forth; and now we must place by the side of them the things done from necessity, for the creation is mixed and is the result of a union of necessity and mind.' If by the mind (*νοῦς*) Plato understands the rational, and the forming element, then by necessity (*ἀνάγκη*) he understands the irrational or the plastic element in creation. By *ἀνάγκη* thus is meant the *motum non movens*, that which receives the free and spontaneous activity of the *νοῦς*, the mould or the raw material of creation. Thus after Timaeus invokes the gods anew, he remarks: 'This new beginning of our discussion requires a fuller division than the former.' Notice that all he claims to do here is not to *add a new nature of being*, a new genus overlooked in the previous

¹³ On the meaning of the 'Spurious reason' see Zeller's *Plato and the Older Academy*, VII, note 60.

discussion, but simply to give a fuller division. For the genus of Becoming, before assumed to be simple, since the situation did not demand any further analysis, is now to be divided into its constituents for the purpose of bringing out the principle of *ἀνάγκη* in the universe. Heraclitus declared *πάντα ῥεῖ*, and Plato subscribes to that doctrine. Yet it needs some modification. True that the shape of the gold moulded by the goldsmith is mutable and transitory, yet behind there is abiding gold that one can point his finger to and say *τοῦτο*. Hence a thing of Becoming is not after all unique and simple, but behind the fleeting forms there is a more abiding substrate. Becoming, then, can be further classified into the two incoordinate elements, form and matter, and the latter is the principle of necessity, the invisible receptacle and nurse of generation.

But here (p. 51) an epistemological problem presented itself before Plato, and he digresses for a little while. If we see only forms and phenomena, what right have we to think of things in themselves, of Ideas? And how do we know that our mental representations have their corresponding objects in reality? A similar question might be asked: How do we know the nature of the invisible raw material? But here the answer is simple—empirically, by means of our senses. Fleeting images must have their more abiding receptacle. But by what channel do we cognize Being, the Ideas that are not perceptible to our sense? This involves Plato's whole theory of knowledge. There are two different kinds of cognition—mind and true opinion, the former seeing things *a priori*, without the aid of the senses, and the latter knowing things *a posteriori*, by experience. In correspondence to these two ways of knowledge we have the realm of Being perceived by mind, and

the realm of Becoming, including both forms and matter apprehended by true opinion, which knows both the image and the thing. But this twofold classification does not exhaust all human cognitions. It does not include that dream-like knowledge, that mysterious, inexplicable 'spurious reason' which apprehends of a home of all created things, eternal and indestructible. It might be omitted in the story of the creation, for it neither plays the creative part of Being, nor is it the plastic element of Becoming, but stands alone in its eternity as the home of all created things, nay, as the stage upon which the whole drama of creation is performed, and the stage never enters into the plot of the drama; yet it cannot be overlooked as an object of cognition in the epistemological discussion. Hence Plato introduces here a correspondence to our third mode of apprehension, a new genus, 'a third nature, which is space'. After a few remarks on the nature of space, Plato returns (p. 53) to the story of creation, and having discussed the material essence of things, the universal chaotic mass, he now proceeds to tell how Demiurgus produced order and arrangement in the world, and the discussion of the material cause gives way to the formal cause in the generation of the universe.

Thus our problem is solved. It was a misunderstanding that led people to believe that in the description of the receptacle and of space Plato referred to one and the same thing. We have shown that on the contrary Plato conceived them to be two distinct natures; the one partaking in creation, the other containing creation; the one empirically apprehended, and the other independent of all sensations. And all the arguments that the supporters of the materialistic view of space endeavoured to draw from Plato's discussion

of the receptacle, the matter of generation, are based on a misunderstanding.

What then are we to gather from Plato's genuine discussion of space? It is not material, for all material things are created and empirically given, while (p. 28) space is eternal, and beyond all experience. We derive the notion of space not from contact with external reality, as the father of English empiricism claimed, but it is an innate idea of the mind, that all created things must be in space. Psychologically, this view bears a striking resemblance to the Kantian conception of space, but metaphysically the two are diametrically opposed to each other. Indeed, according to Plato, space is not a mere *ens rationis*, for being eternal it existed ever before the birth of the human mind.

When we come down from Plato to his illustrious disciple, Aristotle, we feel somewhat relieved. To be sure the matter becomes more profound, the treatment more analytic, and we have now before us a procession of brilliant syllogisms, but the most profound syllogism may sometimes be more easily digestible by the human mind than the smallest figure of speech.

ARISTOTLE'S CONCEPTION OF SPACE.

III. That place^{13a} exists is evident from our most ordinary experiments. Watch a vessel through which water flows out and air comes in. There has been a thorough change in the contents of the vessel, yet something remained unchanged, the stereometric content, the place, the cubic inch or cubic foot which does not change whether it

^{13a} It is to be noted at the outset that our usual distinction between 'place' and 'space' does not exist for Aristotle. They are both identical.

contains air or water or any other material. Thus place evidently exists. And it has not only mere existence, but also different qualitative determination, namely, upward and downward; fire tends upward, and earth downward (Aristotle's *Acht Bücher Physik*, Prantl, IV, ch. 1). But what is the essence of space? Here a multitude of difficulties present themselves. We all know, of course, that it is characterized by three dimensions. But in what category is place to be put? It cannot be matter, for in that case we could not have a body in space without violating the law of impenetrability, according to which two bodies cannot occupy the same place at the same time. For if a body could absorb another equal body, it might go on with this process of absorption to such an extent that a drop of water might absorb the whole sea (IV, 8). Place then cannot be material, for then it could not form the receptacle for any material thing. On the other hand, it cannot be incorporeal for it has magnitude. Or is it perhaps the limits or the superficies of any body? Resuming our original experiment with the vessel, we find that while the superficies of water make way for the superficies of air, and these in turn make way for some other superficies, what we call space does not change, hence space cannot mean superficies.

Thus we have seen that space is neither matter, nor form, i. e. the superficies of matter. Indeed, matter and form are internal in any given body, while by space we commonly understand an external receptacle. For the same reason we cannot maintain that space is the interval between the superficies of an object; for an object may be taken out of its place and restored to it, but one cannot remove an object from its interval. Moreover, the identi-

fication of space with the interval of a thing will lead us into many absurdities.

In the first place, if by space we understand the interval pervading the water or the air passing through the vessel, then every particle of the moving body will be surrounded by a space, and consequently there will be an infinite number of spaces.

Secondly, a moving body moves in *space*, but the body contains in itself a space in the form of an interval. Hence space will move in space, which is absurd.

Thirdly, when the vessel which contains an interval moves and occupies another interval, we will have a fusion of two intervals or spaces, which is likewise absurd.

But if space is neither matter nor form, nor the interval of a thing, there remains only one more alternative, and that is the adjacent boundary of the containing body. Man, we say, is in the world by virtue of his being on the earth, and on the earth because of the limited area which closely comprises him. Thus by space we must understand nothing else than that which contains, i. e. the vessel of any given thing. The place of the sailor is in the boat, the boat is in the river, and the river is in the river-bed. But Aristotle is anxious to make of space an ultimate being, and hence maintains that strictly speaking space is not the boat, nor the river, for these are movable, and a movable space would signify a space moving in space, which is absurd. True space then is immovable. It is the extreme limit of the heavenly sphere in which all things move, but it is not itself moved. Consequently only that is essentially in space which is contiguously contained in that extreme immovable boundary. All other things are only accidentally so by virtue of their being

a part of that which is essentially in space, just as we say, reason is in man, though strictly speaking it is only in the mind of man.

So far we have been discussing space as filled by this or that object, as *πλέον*, but there are some who believe in the existence of a *κενόν*, of pure and empty space unoccupied by any material being, whether earth, water, or air, a mere void, an absolute vacuum. And they support their belief with the following arguments. Motion is possible only through a vacuum; for if a body could move through and penetrate another body, a sea, as we have seen before, might be absorbed in a drop of water. And how could any absorbent material soak into itself any liquid without exhibiting any voluminous increase, if not for the intervening voids? Aristotle repudiates the existence of any vacuum. Attacking the argument from motion, he maintains that motion is rendered possible, not necessarily through a vacuum, but also through an exchange of places with another body. Similarly when an absorbent body attracts a liquid, it may not be because of inherent voids, but because it dispels another body, namely, air. Furthermore, the fact is that vacuum, far from helping a moving body, far from forming the *sine qua non* of motion, makes indeed the phenomenon of a moving body impossible. Let us first analyse the kinds of motion. There is a motion of fire upward, or of earth downward, i. e. natural motion; and there is a motion of the ball that has been cast, i. e. violent motion. Both kinds of motion are impossible, according to Aristotle, in a void.

The upward tendency of fire is possible only through the difference in the conditions of the place in which it tends, from the conditions of place to which it tends, but

a void cannot have these differences, inasmuch as it is the privation of any properties or conditions. Hence natural motion in a vacuum is an impossibility.

Violent motion is similarly impossible in a void. For the projected ball, according to Aristotle, moves on by the impulse of the air behind, which being lighter tends to move faster than the ball; but in a void there is no air to keep the ball in motion. Furthermore, the velocity of any given body depends on the density of the medium and the weight of the body. All other things being equal, the rarer the medium, the quicker the velocity; the less the density of a medium, the less the time that it will take a body to move over a given space. And since the density of a vacuum is zero, the time in which a body undertakes to pass over a given distance will likewise be zero; that is to say, a body will move in a vacuum in no time, which is absurd. A similar 'absurdity' is reached when we consider the other determinant in a moving body, namely, its weight. The weight of a body is its power to cut its way through a given medium, but inasmuch as a void is the absence of any medium, all bodies, whether light or heavy, would fall with the same velocity, and according to Aristotle this again is absurd. Consequently motion, in any of its forms, would be an utter impossibility in a vacuum.

Or consider the void in which a body is placed. When a body is immersed in any liquid, the latter will either be compressed or displaced and dispelled. But it is inconceivable how a void, sheer nothingness, can either be compressed or dispelled. Evidently then the void will absorb into itself the immersed body. Now every body possesses magnitude; and if the void is real, how will one

magnitude absorb another one without violating the law of impenetrability. Consequently Aristotle concludes a void does not exist. It should, however, be remarked that the argument is not altogether sound. The hypothetical reality of the void is not consistently maintained in this argument. In the first part Aristotle argues that the void, even if real, cannot be compressed or dispelled, because materially it is mere nothingness, yet in the latter part he argues that if the void be real it would absorb the immersed body and thus violate the law of impenetrability; but if its reality is not meant to be material, we have no case here of absorption, or any one *body* penetrating another.

How then does Aristotle explain the phenomenon of compression and condensation which is very often adduced as an argument in favour of the vacuum theory? And what constitutes the differences between a rare and a thick body? Is it not that the rare has many more intervening voids which become stuffed with matter when the given body is undergoing a process of condensation. No, according to Aristotle, the difference between a rare and a thick body is not that the one consists of segregated tinier particles than the other; in other words, the difference is not quantitative, but purely qualitative. Matter is never broken up or discrete, it is continuous and unique; but there are two states of matter, the rare and the thick. And these two qualitative states are not mutually exclusive, but each one harbours the potentiality of the other. Thus condensation and rarefaction really fall into Aristotle's conception of motion, inasmuch as they are both processes of realization of latent potentialities.

Let us now formulate briefly Aristotle's main thesis in the problem of space. The term 'space' conveys to us three

distinct ideas: either the magnitude of any given body, i. e. extension, or the receptacle of a given body, i. e. its place, or mere magnitude not filled with matter, i. e. a void. Now empirical space was not at all a problem for Aristotle. He combated the notion of space as the 'interval' (*διάστημα*) of a given thing, but the existence of the 'interval' he never called in question. The Cartesian breach between mind and body, which led to the famous Kantian doctrine of the subjectivity of space, was yet unknown. The reality of any concrete magnitude is not called in question. As to the notion of place, according to Aristotle, it is nothing else than the relation of contiguity subsisting between two bodies. It does not represent, then, any entity of its own, whether material or spiritual. It is a relation, it is the point of contact between two concrete objects. Finally, as to the void, this is entirely non-existent, for the reason that since place is simply the relation of proximity subsisting between two things, there is no room left for mere extension outside of any concrete object or void. Hence space is finite, as finite as the material universe of which it is an expression of contiguous relationship.

It should, however, be observed that Aristotle was not consistent in this notion of place. He argues that place is essentially stable and immovable, for if it were movable it would move in place, *ergo*, place would be in place, which is absurd. Hence, only the all-containing diurnal sphere immovable—though revolving around its own axis—can be designated as essential place; otherwise we have only accidental place. Now imagine I have a coin in my hand, and I move my hand from point *A* to point *B* on my desk. To be sure, the place of my hand, that is to say, the relation of proximity between my hand and the point *A* changes,

but the relation between the coin and my hand does not change. You may imagine also that while I move my hand from *A* to *B* the coin undergoes on its own account a simultaneous change of place-relation; but the two changes in place-relation are mutually independent, since point *A* is not the place of the coin. It is meaningless therefore to speak of space moving in space, if by the latter is meant merely a relation of contiguity. Thus Aristotle's distinction between accidental and essential place is unwarranted. Altogether one may speak of an object as being in motion, in the sense that the one and the same object preserving its whole identity changes its environment; but if by place we understand just this relation of environment it cannot strictly speaking move, for its whole identity is changed, and there is not one relation moving, but there are as many distinct relations as points of motion. It is the failure to realize this distinction between a relation and a thing, i.e. between place as relation and place as objective space, that makes the whole argument fallacious.

Thus I have presented before the reader two distinct views of space, the Platonic and the Aristotelian. The first, as I understand it, looks at the material universe as a small island in the midst of a vast infinite sea which we call space. The other takes no cognizance of imperceptible space, but apprehends only corporeal things and their relations. How far Jewish speculation was influenced by these two views, the subsequent pages will attempt to describe.

CHAPTER I

EMPIRICAL SPACE.

I. THAT extensivity is an indispensable element in our notion of matter was never questioned by Jewish thinkers. Yet the complementary idea that unextendedness is an indispensable element in our notion of spirit was less fortunate. The line of demarcation between matter and spirit was not distinctly drawn by some earlier Jewish thinkers. Subconsciously, however, they felt that an absolute spirit cannot be conceived in terms of magnitude. Hence, while the soul is sometimes spoken of in words that do not exclude extensivity, it is always emphasized that the deity is beyond the category of space. Gradually the two types of reality were mutually divorced, and the principle soon acquired axiomatic certainty that unextendedness is the distinguishing mark of spirit, just as extendedness is the distinguishing mark of matter. Let us see how this change came about.

Beginning with Saadya of Fayum,¹⁴ an author of the earlier part of the tenth century, we find that he accords to the soul only an intermediate position between matter and spirit. It is made of a luminous stuff that is finer than matter, though differing only in degree.¹⁵ Hence the

¹⁴ Saadya may be designated as the author of the first systematic presentation of the philosophy of Judaism, though by no means the pioneer in Jewish mediaeval speculation. Mention is to be made of Isaac Israeli of Kairwan, a thinker of note, who died one year before the completion of the *Emunot*, but whose philosophical fame was eclipsed by his fame as a physician. Cf. *Iggerot ha-Rambam*, p. 28, Leipsic, 1859.

¹⁵ See *Emunot*, ed. Kitover. I have selected this uncritical edition for reference because of its being the most accessible. (A scholarly edition of the *Emunot* is now being prepared by Dr. Malter.) See also Horowitz, *Die Psychologie bei den jüdischen Religions-Philosophen*, I, 28.

problem of space and spirit did not present itself to Saadya in connexion with the soul. Perhaps his treatment of the deity, though belonging to the realm of theology, will give us a better occasion to learn what he thought of our problem. We find that Saadya lays special emphasis on the non-spatiality of God. By extensity, he says,¹⁶ we mean two things, first the tridimensionality of an object, and secondly divisibility. An indivisible extensity is a contradiction of terms, for by extensity we mean a simultaneous continuity of parts. Feel this book, you have a sense of parts outside and alongside of each other, and you say it is extended. Thus our notion of the magnitude of an object is composed of the sense of its tridimensionality, and that of the 'alongsideness' of parts or divisibility. But God cannot be said to be either tridimensional or divisible, hence he is beyond extension. In another place¹⁷ he argues that only the material can be said to occupy space, which according to his conception means to come in contact with another body. When we say that an object moves in space we mean that there is always a point of contact, a *limit* between the earth and the body which encompasses it, namely, air, but we cannot perceive how the immaterial can meet a material body. Hence God is not in space. Saadya, it is to be noticed, alludes here to the Aristotelian conception of space, i.e. as 'the inner limit of the containing body', as we shall see in the sequel; but the basic idea of the argument is that inasmuch as by 'limit' we understand that point where a certain body ends and another body begins, and that alongside of that point there is a series of points which do not mark the beginning of another body; in other words, since a limit conveys to our mind a picture

¹⁶ *Ibid.*, p. 96.

¹⁷ *Ibid.*, p. 99.

of a series, of a simultaneous succession of points, i.e. a picture of an *extended* object, the immaterial therefore cannot have any *limit*, for the spirit lacks the attribute of extension. Hence, when the prophets speak of 'God in heaven' they use metaphorical language, for surely they do not mean that God extends over, and is contained in the heaven.

But here we meet with a tremendous problem. How can we speak of divine omnipresence?¹⁸ Omnipresence is the attribute of a thing which is here and there and everywhere, and that which has a 'here' and a 'there' has parts outside and alongside of each other, and is therefore extended, and to assume a divine omnipresence ought to be as nonsensical as to maintain a spiritual extensivity or an extended spirituality. Saadya, however, is not ready to relinquish this fundamental dogma of religion. God, he explains, is present in the universe, as consciousness is in the body,

¹⁸ See *Emunot*, p. 102. ואיך יעמד בשכלנו המצאו בכל מקום עד שלא יהיה מקום ריק ממנו? מפני שלא סר קודם כל מקום ואלו היו המקומות מפרידים בין חלקיו לא היה בורא אותם וכיון שהדבר כן המצאו אחר שברא הנשמים כולם כהמצאו קודם לכן בלא שינוי ולא פרידה ולא הסתר ולא הפסק. By the expression *לא סר קודם כל מקום* Saadya does not mean that God existed spatially before creation, for that would be a flat contradiction to p. 99, where he says *ועוד שלא סר לבדו ואפס מקום ואיננו* נעתק בעבור בריאתו למקום, i.e. that God existed in no space before creation. There he also maintains that even after creation God must exist in no space, for else there would be a change in His being. Hence also the expression *המצאו בכל מקום עד שלא יהיה מקום ריק ממנו* cannot refer to any spatial existence. Evidently, then, Saadya means that while God is omnipresent, he is not at the same time extended; but he does not explain the apparent contradiction. An attempt at explanation he makes in the commentary on the Book of Creation, IV, 1, where he describes the deity as the consciousness of the universe, permeating the texture of the world by means of some rare and luminous gas. Comp. Kohler's *Grundriss einer systematischen Theologie des Judentums*, p. 73.

being found all in all and all in every part ; and just as the soul maintains its material nature and indivisible integrity while being diffused over the body, so is God in the universe. Cut a limb off from a living body, and the soul is not lessened ; annihilate a half of the universe, and the deity is not impaired. This explanation, however, can scarcely be designated a solution. It seeks to explain one difficulty by another difficulty, the difficulty of extended divinity by that of extended consciousness. Once you separate spirit from extension, you will find mind in space no more intelligible than God in space. Saadya, however, does not stand alone in the inability to cope with this tremendous problem. The human mind thinks in terms of the material data of human experience, it has no other data. Hence we are all labouring under a difficulty when we attempt not merely to *say* spirit but also to conceive spirit, whether mind or God. It is just as if the man born blind would attempt to conceive of colour. If, then, you accept the Cartesian dualistic position, you must end in sheer agnosticism of anything spiritual ; or else, leaving God to the theologian, you must maintain that the human mind is not an entity *per se*, hiding itself in some recesses of our grey and white stuff,—for the very fact that you speak of it as located in a certain place spatializes it—but that it is a mere quality of our brain-stuff, just as heat is the quality of a certain body, meaning by quality a certain state generated by changes in the relative position of the atoms. Similarly consciousness is a certain state generated by changes in the relative position of the neural atoms under the action of external stimuli. Thus following the Cartesian dualism to its logical conclusion we eventually land in material monism. But that seems to me the only safe position if

we have no desire to entangle ourselves in the dilemma of space and spirit. But this is evidently too advanced for a mediaeval thinker, and I have permitted myself to digress in order to solicit our sympathy for Saadya and those who follow him in their vain attempt to solve a difficulty which still perplexes the human mind.

An advance in the conception of spirituality was made by Ibn Gabirol, who had the fortune of having his works quoted and discussed by the leading men of mediaeval scholasticism and his name forgotten.¹⁹ He lays down a positive principle that anything simple and spiritual does not occupy space, and does not fall into the relation of near and far.²⁰ He goes beyond Saadya in considering the soul also an absolute *substantia simplex*, so that it is altogether beyond the category of space.²¹ This uncompromising position opened before its author the wide chasm between mind and body. If the objective world is so essentially unlike the subjective world, what is it that transforms my impressions of external stimuli into a mental representation? And what is it that exchanges my purely mental act of volition into muscular activity? Gabirol attempts to bridge this chasm between soul and body. He finds in some sort of vital force (*spiritus*) a connecting link,

¹⁹ *Orient. Lit.*, 1846, No. 46, and Munk's *Mélanges*, p. 152 ff.

²⁰ 'Omne simplex et spirituale locum non occupat.' *Fons Vitae*, p. 153. 'Substantia simplex non habet locum et omne quod non habet locum essentia eius aequè distat ab omni.' *Ibid.*, p. 156, on p. 120, he remarks: 'Substantia spiritualis non est terminabilis essentia quia non est quanta nec finita et quod fuerit terminabilis essentia eius essentia extenditur et est in omni loco'; but all he wishes to emphasize is, that of the spirit one cannot say it is here and not there. It has like relations in all spaces.

²¹ 'Anima mobilis est per se non in loco,' p. 83. For the designation of the soul as *substantia simplex* see Horovitz's *Psychologie*, II, p. 108, note 65.

a 'causal nexus' between the two extreme forms of being.²² The problem, however, still remains; what is it that unites this causal nexus to either mind and body?

After Gabirol, we find no Jewish philosopher questioning the non-spatial nature of the soul. The problem now was how to conceive of a non-spatial nature located in a certain place. God is referred to very often both by Biblical writers as well as by Talmudical sages as being in heaven. Similarly the soul has been located by Aristotle in the heart, and later by Galen in the brains. The opinion has also been ascribed to Plato that every man harbours in himself three souls, each one having its own habitation. But how can a purely spiritual being be in a certain place? When we say that the wine is in the flask, we mean that there is a limit where the wine ends and the flask or the walls of the flask begin. Strictly speaking, then, the

²² See מקור חיים III, 3: והנפש נברלת לגוף ולולי הרוח האמצעי: ביניהם לא היה דבק אחד מהם באחר. Compare the *Tractatus de Anima* attributed by Munk to Gabirol, where we read: 'Simplex autem non potest coniungi spisso sine medio quod habet similitudinem cum extremis. Item anima non apprehendit sensibilia per se nisi mediante spiritu qui est substantia sentiens consimilis utrisque extremis et est media inter corporeitatem sensibilibium et spiritualitatem animae rationalis.' The notion of *ruah* as distinct from *nefesh* was very popular in mediaeval Hebrew literature. See Steinschneider in *Hakarmel*, 1871, p. 400. See also *The Book of Definitions*, by Isaac Israeli, the physician, published by H. Hirschfeld in Steinschneider's *Festschrift*, p. 138: ואם ישאלנו שואל מה פרק בין הנפש והרוח: נשיב להם כי הפרק ביניהם יהיה משתי פאות כי הרוח הוא עצם גשמי שמקיפו הגוף ואוחזו ומחזיק בו והנפש היא עצם רוחני שמקפת לגוף מחוץ ומחזיק בו. Joseph ibn Aknin seems to have been conscious of these words of Israeli when he wrote: הרוח גשם והנפש אינה גשם אלא צורה הרוח: מהלכת בשבילי הגוף ורנפש לא יכולה הנשם. See his *Ethics*, p. 174 (*Sepher Mussar*, ed. Bacher, Berlin, 1910). Comp. also *Cosari*, p. 96: והנפש לא תתחבר כי אם ברוח חם טבעי אי אפשר לו בלתי מקור שיקשר לו כהקשר הלהב בראש הפתילה דמיון הפתילה היא הלהב.

'inness' of a thing implies a certain limit ; but a limit is always the end of a series of points that are not limits ; in other words, the end of a certain magnitude. But God and the soul are now conceived to be non-magnitudinal ; how can we designate them as *in* a certain place ? Surprisingly enough, the very author of the dualism of consciousness and extension, René Descartes, was guilty of the same fallacy. He located the soul in the pineal gland. We already saw Saadya finding difficulty in this idea. Judah Halevi explains it as follows : When we speak of God dwelling in heaven, we mean nothing else than that there the workings of the deity are most clearly and directly manifested ; for below the heavens it works through natural agencies, and thus the divine plan can be discerned only indirectly. This explanation, it should be noted, is based on the pre-Newtonian distinction between the *natural* sublunary world and the *divine* superlunary world. Later Jewish philosophers differed in explaining the expression of 'God in heaven', but they all agree that it is not to be taken literally.²³ A similar explanation Judah Halevi offers for designating the soul as being in the heart, because the latter is the most vital organ, the centre of all blood vessels and arteries, and here again we do not mean exactly that the soul is physically situated in the heart.²⁴ The possibility of any place-relation between soul and body was further reduced *ad absurdum* by a younger contemporary of Halevi, namely, Joseph ibn Zaddik. In his little work entitled *Microcosm*²⁵ he argues : The soul cannot be in the body, for anything that is in another object is

²³ See Schechter, *Aspects of Rabbinic Theology*, p. 28 *et seq.*

²⁴ See *Cosari*, ed. Zefrinowitch, Warsaw, 1911.

²⁵ See *Microcosm*, ed. Horovitz, pp. 33, 36.

corporeal. Moreover, if it were in the body it would either be centralized in one particular place, or else extended all over the body; but in the first case the other parts will be soulless and dead, and in the other case a limb cut off would be so much of the soul taken away, which contradicts our conception of the integrity and indivisibility of the soul. But perhaps it is outside of the body?²⁶ Then we would have three alternatives: either the soul is removed from the body, or close to the body on one side, or else enveloping the body like a veil. Now the first alternative is impossible, for how would the body live when not in contact with the soul. The second alternative is impossible, for then the other side not touched by the soul would be lifeless; and the third one is equally impossible, for if it embraces an extended body it must itself be extended. It must have a certain magnitude; a pin-point cannot embrace a material object. But the soul is pure spirit, and altogether unextended. Hence any conceivable place-relation between soul and body is absurd. And yet we speak of a soul animating the body; consequently there must be some inter-relation between them. How is that relation to be understood? The answer to this question Joseph ibn Zaddik puts in very vague and ambiguous terms.²⁷ He speaks of

²⁶ Such a view indeed has been maintained as early as Isaac Israeli of Kairwan in the above cited passage from *The Book of Definitions*: והנפש: היא עצם רחני שמקפת לגוף מוחין ומחזיק בו.

²⁷ והנה התבאר ממה שהקדמנו שאינה לא גוף: עולם קטן. ולא בגוף ולא חוצה לגוף אלא היא דקה מאוד והקפתה לגוף יותר דק מהקפת הגוף עצמו ויותר קרובה לגוף מקורבת חלק הגוף לגוף. . . הואיל ואינה בו כמו שבארנו שאין מקומה הגוף אבל הנפש מקום לו אבל מקום ולא יעלה על הדעת שזה הדיבוק שאמרנו בנפש: Comp. p. 31. שכלי החכמה ובנפש החיה שהוא דיבוק גשמי אבל הוא דיבוק רוחני. It is strange that the vegetative soul is here altogether omitted, although on p. 37

the soul being finer than the mere extremities of the body, and adhering to it closer than one part of that body adheres to another. But all this should be taken as a strong effort to describe the spiritual nature of the soul in the terms of matter. And he warns us not to conceive of the interaction between mind and body as in any way material. It is a spiritual interaction.

Undoubtedly the reader will still be dissatisfied. A spiritual mode of interaction will suit the spiritual agent, but not the material recipient. The 'causal nexus' that Gabirol and Halevi found in the vital force is no longer applicable here. According to Joseph ibn Zaddik, the vital force itself is absolute spirit beyond the category of space,²⁸

he speaks of all the three souls as independent spiritual substances ; and on p. 29 he maintains that, strictly speaking, it is just as improper to locate the vegetative soul in the liver as the vital soul in the heart, for location would imply spatiality, and hence corporeality. This omission is not merely incidental ; it agrees with another passage on p. 28, where the reasons why the vital soul cannot unite with the body unless the latter has been already penetrated by the vegetative soul, is explained as follows : 'Body is dead, and the vital soul is the source of life ; the first is fine and the latter is thick and earthly. Hence the body can unite with the soul only when already filled with the vegetative soul.' But the question suggests itself quite readily : How does the vegetative soul unite with the dead and coarse body ? And if Ibn Zaddik meant to imply that the vegetative soul can come in contact with the body because it is near the material order of existence, how is it to be reconciled with the other statement that all three souls are spiritual and non-spatial ? The contradiction is patent, and all we can do in this connexion is just to point to it, but not to remove it.

²⁸ Ibn Zaddik does speak of a *רוח החיה*, a vital force, but in his psychological system it is only one of the constituent forces of the vital soul, and is therefore pure spirit. Comp. on p. 28 : *ועל כן הנפש החיה היא נשואה* : *ברוח החיה שהוא כח מכוונת והרוח הזה החי נשוא בדם הזך אשר בעורקים*. The term *נשואה*, however, is difficult, suggesting as it does that the *רוח החיה* is something independent of the *נפש חיה*, which is expressly repudiated immediately by what follows. This vital force seems to

or any other material accessories. It is itself an extreme that needs a connecting link to come in touch with body. We welcome his elimination of the 'causal nexus' theory, which does not help the situation at all, and is fraught with logical difficulties, but on the other hand the doctrine of direct spiritual interaction leaves the problem still open on the side of the material recipient. However, occasionalism and parallelism, or any other doctrine invented for the purpose of justifying the dualistic standpoint, does not offer a more satisfactory explanation.

The dualistic position received its clearest formulation in the *Microcosm* of Joseph ibn Zaddik. It underwent no modification or further development in the systems of the Jewish philosophers that the Middle Ages produced after him. We are ready then to formulate our first thesis: Absolute spirit is distinguished from absolute matter in that it is altogether beyond all notions of spatiality. I say 'absolute spirit' and 'absolute matter', in order to include the first mediaeval thinkers, who though they entertained spatial notions regarding the soul, which was viewed as a somewhat material essence, yet removed all magnitudinal determinations from a truly spiritual essence, e.g. God. And if we consider that they lived in an age which was quite productive of queer mystic treatises on different ways of measurement of the deity and its various limbs, we will be in a position to realize the whole significance of the doctrine not only for the history of theology, but also for

be a superfluous appendix to his psychology, perhaps under the influence of Ibn Gabirol, though in his own system it is altogether meaningless. Comp. p. 28: הנפש החיה היא בלב נשואה בדם הנקי המתולעי אשר בלב, and on p. 29: שכחות הנפש החיה נשואים בדם אשר בלב, where this vital force is altogether omitted.

that of pure philosophic speculation. At first there was only the antithesis of God and corporeality, with mind occupying the middle ground, but the domain of spirit gradually appropriated all our psychic powers until the middle of the eleventh century, when strict dualism became the standard view-point in Jewish philosophy, a dualism of mind and body, the latter being extended in space and the former spaceless.

II. In the preceding discussion we have reached the conclusion that spatiality is the distinguishing characteristic of the corporeal world. Indeed, if you examine the different systems in Jewish philosophy you will find that they all concur in defining matter as that which has three dimensions. But this definition raises a very important problem, to which we will now direct our attention. Tridimensionality, we all agree, is the distinctive feature of matter, but does it constitute the very essence of matter? Evidently not: we can conceive of tridimensionality devoid of any material object. You may apply the air pump to your jar and thus remove the air almost completely, but you cannot remove the spatiality which still remains in the jar in spite of your efforts. Obviously the space does not constitute corporeality. And if we cannot say that a body is space, but that a body has space, the question remains what is body? What is it that hides itself behind a veil of tridimensionality?

Before we start our discussion of the Jewish view, however, let us attempt to examine the problem somewhat more closely, and get at the real issue. Pragmatically, it is to be noted, the whole question is meaningless. Reality consists of groups of sense-impressions which we call things, and with which we are constantly in relation and inter-

action ; as for things-in-themselves, we have as little to do with them as with the Man-in-the-moon. When the food is tasty we are satisfied, but whether the food *per se* is tasty or not, we never seem to worry. Or, to take a nobler illustration, we rejoice on a bright summer day over a vast green lawn, but we are little concerned with the possibility of there being something that is neither vast nor green nor lawn. The pragmatist then may very well shrug his shoulders at the quibbling whether extensity is only phenomenal or also noumenal. Yet from the standpoint of the historical investigator, who is anxious to trace the links in the development of human speculation, even this quibbling becomes highly interesting. The problem is as follows: Every object presents itself to our minds in a variety of ways. The apple is perceived in the form of greenness of colour, roundness of shape, smoothness of touch, and sweetness of taste. Now some of these forms of perception, like colour and touch and taste, are undoubtedly subjective. The apple in itself unperceived by the human mind is devoid of these secondary qualities. We all admire the beauty of the rainbow, but in fact this beautiful array of colours is a creation of our visual apparatus; what we really have before us is a mere variety of absolutely colourless vibrations of ether. And now the question is: What of space? Is it also a sense-illusion, or is it real?

In the history of general philosophy we find that Aristotle understood his master to identify space with matter.²⁹ Whether it was a true understanding of Plato

²⁹ See *Phys.*, IV, 2 διὸ καὶ Πλάτων τὴν ὕλην καὶ τὴν χώραν ταὐτό φησιν εἶναι ἐν τῷ Τιμαίῳ . . . "Ὁμοῦς τὸν τύπον καὶ τὴν χώραν τὸ αὐτὸ ἀπεφώνησε. See *Tim.* 52 a. Comp. Baeumker, *Das Problem der Materie in der griechischen Philosophie*, pp. 177 ff.

or a misunderstanding, I have attempted to decide in the introduction. But mediaeval thinkers after all followed Aristotle, and were consequently influenced by this ascribed Platonic notion. A similar theory was maintained by Descartes, who in his zeal to widen the gulf between mind and matter, made extension the essential nature of things, and was consequently led to deny the existence of a void, for a void is abstracted spatiality, immaterial extension, which is from the Cartesian standpoint an absurd contradiction. We may mentally abstract, he argued, all characteristics by means of which the external world makes itself known to our senses, but we cannot abstract the element of spatiality without destroying our cognition. We may conceive of a colourless, tasteless, and odourless object, but we cannot conceive it non-extended. Hence extension must be the essences of an object, the primary quality, unbegotten by the mind and independent of all perception. The avalanche is none the less big in far off arctic regions where there is no human eye to perceive its 'bigness'. Space is that attribute of things without which their existence is utterly impossible.³⁰

The same argument that led Descartes to maintain the absolute and unconditioned reality of space, induced Kant to uphold the ideality of space. If I cannot abstract the space element without destroying my cognition it does not follow that space is an external reality, for that will not account for the impossibility of a mental abstraction of spatiality, but it does follow that space is the mental condition and the indispensable framework for all perception. Just as when we look through blue spectacles,

³⁰ See Descartes, *Principes*, I, 63-4; II, 11.

we see a world of blue, blue suns and mountains and trees, so the mind, when it turns its gaze on the external world, puts on spectacles of spatiality and thus beholds a strange extended universe. Consequently things-in-themselves, independently of our senses, are beyond the category of space; it is the mind only that envelops them in a garb of extension ere it admits them into its own domain.

Thus we have three solutions to the problem of space and matter, each solution marking a certain state of progress in the development of human thought. First, we have the pseudo-Platonic theory which maintains that space is the undifferentiated material substrate of all things, the raw material which the architect moulded into the infinite variety of things, the wax upon which the great Demiurgus impressed his signet. Secondly, we have the Cartesian solution, according to which space is not matter, and the very ground-work of all things, but the primary distinguishing attribute of corporeality, meaning by 'primary' the only quality which really adheres to an external object independently of human perception, and by 'distinguishing' the only quality without which the existence of corporeality is unimaginable. Finally, we have the Kantian solution, according to which space is neither matter nor an unconditional attribute of matter, but a subjective form of intuition, a framework of sensibility.

Now what solution did the Jewish thinkers offer to our problem? It should be noted that virtually all of them define matter as that which has three dimensions, some even make tridimensionality itself the definition of matter, yet one must be cautious in drawing from this, usually careless, definition any conclusion regarding the reality of space. However, some Jewish thinkers were more explicit

on that point. In his *Emunot we-Deot*³¹ Saadya illustrates how one can rise from reflection on the empirical data of consciousness to the highest limit of human understanding, by first abstracting from any perceived body all the transient qualities like colour, heat, etc., then also abstracting the notions of extensity, and proceeding with this method of abstraction until the mind steps on the threshold of pure substantiality—Kant would have said the noumenon—which is beyond all human cognition. It is evident then that Saadya considers spatiality as something external to the essence of substantiality, as something that can be abstracted without destroying the concept, as something purely accidental. This view of space is strictly Aristotelian, in which system spatiality is one of the accidental categories of substance; and it is also shared by the Arabian school of thinkers going under the name of Brothers of Purity.³² In Jewish circles it was by no means the predominant one, yet it found its adherents in Saadya, as already noted, in the staunch Aristotelian Moses Maimuni, and in a number of other thinkers. Maimonides especially maintained that spatiality does not constitute substantiality, that a substance consists primarily of matter and form, both of them indescribable in terms of extension which is only accidentally attached to them.³³ Similarly, Samuel ibn Tibbon holds that magnitude is an accident only, that substance is conceivable without it.³⁴ Indirectly,

³¹ See *Emunot*, p. 84.

³² Dieterici, *Naturanschauung*, p. 29: 'Der Raum ist eine von den Eigenschaften der Körper, er ist ein Accidens, das nur am Körper besteht und nur an ihm sich findet.'

³³ *Guide*, I, 76.

³⁴ Scheyer in *Das psychologische System des Maimonides*, Frankfurt a. Main, 1845, p. 110) thinks that Ibn Tibbon opposes Maimonides in this regard, and

from a pupil of the famous astronomer of the University of Padua, Elijah del Medigo, we learn that the latter held the same view.³⁵ Abrabanel³⁶ and R. Jehiel b. Samuel of Pisa,³⁷ both authors of the sixteenth century, also subscribe to that theory of space, according to which it does not play an essential rôle in our conception of pure matter. Thus, one view of the reality of space is the Aristotelian one. Extension does not enter our notion of corporeality, though no one assumed the existence of unextended matter. Snow is always white, yet whiteness is by no means the essence of snow; so matter is always extended, yet extensity is not the essence of matter. It is an inseparable accident.

Over against this view we have one that is more akin to the pseudo-Platonic conception. It was first voiced very emphatically by an older contemporary of Saadya, Isaac

he cites as proof the fact that the former defined matter as that which has three dimensions וגדר הנשם הוא כל דבר שיש לו שלשה רחקים והם אורך רוחב וגובה (רוח חן פ"א). But this definition, far from bearing witness to a substantialistic theory of space, might suggest the opposite, for it includes in the make-up of matter something that *has* tridimensionality and hence beyond it. This latter view is indeed explicitly maintained by Ibn Tibbon in the tenth chapter of the same work, where we read: ואין ספק כי הכמות הוא מקרה לעצם הנושא כי האורך והרוחב והגובה וכן האחרות והשניות והשלשיות אינם עצם הדבר ואין משלימים אמתת העצם ההיא אם כן היא דבר אחר מקרי לעצם. But this passage was altogether overlooked by Scheyer, and also by Schmiedel, who followed him blindly. (See his *Studien über Religionsphilosophie*, Wien, 1869, p. 277, n. 2.) It is also noteworthy that it is by no means certain that Samuel Ibn Tibbon is the author of the pamphlet entitled *Ruah Hen*. But the other theories are no less probable. At any rate it is the work, not the authorship, that is important in this connexion.

³⁵ See שאלות שאול הכהן, p. 10.

³⁶ *Ibid.*, p. 20.

³⁷ See *Minḥat Kena'ot*, ed. Kaufmann (Berlin, 1898), p. 37.

Israeli, in his statement that 'tridimensionality is matter, and matter tridimensionality'.³⁸ Israeli seems to have held this doctrine, a truism, an axiom of thought which requires no proof. Later thinkers were somewhat less confident in this regard. Yet the conclusions of some of them at least were not substantially different. Gabirol considers all existence, both material and spiritual, essentially one. The divine intellect and the mute rock are, according to him, made up of the same matter; it is only the form, the differentiating principle in the universe, that made one mute and the other mental. The genesis of the Universe was then as follows: Originally there was the *hyle*. Then the *hyle* was divided in two, one part of which assumed the form of spirituality, and the other corporeality. Then each great division further divided itself, and again subdivided itself, giving rise to the infinite variety of things, each step in this great evolution being a form to that which preceded and matter to that which is to follow. If we take a flower, we may trace back the different stages that this flower stuff underwent on its march from the *hyle*. Let us consider the few more conspicuous stages.³⁹ Our first impression of the flower is the red colour, and we call it the quality-form. But redness has no existence *per se*. What is it that is red? You will say, of course, the flower is red. But the flower nature is present in each one of its minute particles, yet each minute particle is not red, just as each thin leaf of a gilt-edged book is not perceptibly gilt;

³⁸ See *Sefer Yesodot*, ed. Fried, Drohobycz, 1900, p. 47.

³⁹ Cf. *Fons Vitae*, p. 204: 'Et quo magis redierit et exierit a *substantia ad quantitatem* et a *quantitate ad figuram* et a *figura ad colorem*, manifestius fiet ei esse propter crassitudinem suam.' Notice the four stages in the genesis of all things: (1) substance, by which is meant the first matter; (2) quantity; (3) shape; (4) colour.

Gabirol, it is true, posits in every corporeal object an unextended hylic element, and in this respect he dissents from the pseudo-Platonic view which considers space itself the hylic element; but the *hyle* as used by Plato denotes a greater reality—if the latter can at all be said to be greater or smaller—than the *hyle* of Aristotle and the mediaeval thinkers, so that the two views are at bottom one. For our discussion we may eliminate altogether the mysterious *hyle* which tends to confuse the whole argument, and thus formulate Gabirol's position as follows: Extendedness is the essence of a thing or the thinghood; all other notions we have of an object are unimportant accident. The mathematician, Abraham b. Hiyya, adopted a similar view, and defined matter as tridimensionality plus something, the first term being the form of corporeality, and the second the indeterminate *hyle*.⁴²

The same attitude was taken by the author of the *Microcosm*, Joseph Ibn Zaddik.⁴³ Tridimensionality, he

הארץ והרחב והעמק, and tries to find the cause of the disagreement between Gabirol and Maimonides as to the reality of space in their different attitudes on a certain point in the problem of matter and form, but he misses the real problem at issue. Comp. also Scheyer's *Psychologisches System des Maimonides*, p. 110.

⁴² See חובות הלבבות, p. 2.

⁴³ His meaning is at first glance not very clear and consistent. On p. 7 of the *Microcosm* Joseph Ibn Zaddik says: החומר הראשון אשר לבש צורת הגשמות ונעשה עצם גשמי ולא השיגו ממקרה הגשמות אלא שהוא ממלא מקום והראיה שכל חומר מאליו מובדל מן האחר הוא שכל אחד ממלא מקומו יחלף חבירו בקלות ובכידות ובקור ובחום. Thus he thinks that 'filling space' is an accident. Now turn to p. 9: ובלבשו הצורה הגשמית נעשה בגללו הגוף מורכב לפי שקבל היסוד האורך והרחב והעומק שאלה הם צורת הגשמות וכשרבקו בו הגבולים השלישה הנזכרים האלו מלא מקום ובהיותו ממלא מקום קבל שאר המקרים הגשמיים המושגים בהרגש. Here he holds that tridimensionality is the form of matter, while

asserts, is the form and essence of corporeality, which the *hyle* assumes in the process of actualization; yet impenetrability he maintains is a mere accident. An accident is an unessential element in the conception of a thing, and we can very well conceive of a substance as pure extensity without thinking of that property by virtue of which it resists any body attempting to take its place. In fact, geometrical bodies are not impenetrable; a thousand angles may occupy the same space. And this author evidently applies the conception of ideal matter to real matter. It is the geometrician who deals with the ultimate essence of things, all other scientists with mere accidents.

A slightly divergent view was maintained by Abraham Ibn Daud in his work entitled *The Exalted Faith*. This author points out that tridimensionality is not the essence of matter, but an accident. Quantity is one of the nine accidental categories. It is accidental because it is not permanent and immutable. From the same piece of wax—let us say ten cubic cm. in volume—you can mould any number of objects with an infinite variety of dimensions.

'filling space' is accident. Similarly, on p. 13, where he remarks: **בִּי הִסוֹד** הַנּוֹשֵׂא לָאֲרֻבַּע הַטְּבָעִים הָאֵלֹוּ הוּא עֵצָם מִחֻזִּיק מְקוֹם בְּלִבְשׁוֹ צוּרַת הַנִּשְׁמוֹת שֶׁהוּא הָאוֹרֶךְ וְהָרָחֵב וְהַעֲמֵק וְכִשְׁמִילָא מְקוֹם יִתְנוּעַע. When we examine, however, the meaning of the expression 'filling space' in the first quotation, we are led to suspect that it corresponds to the idea of impenetrability. This is corroborated by a study of this term as used by other authors. It is similar to the expression **יִטְרִיד מְקוֹם** 'occupying space'—both corresponding to the Arabic **يُطْرِد مَكَان**, sometimes used to convey the sense of impenetrability. Comp. Crescas, *Light of God*, p. 14: **שֶׁהִרְחִיק בְּעָלֵי חוֹמֶר** יִטְרִידוֹ הַמְּקוֹם אֲשֶׁר מִזֶּה הַצֵּד הוּא נִמְנָע הַכֵּנָם גִּשְׁם בְּגִשְׁם דַּע כִּי עֵינֵי הַנּוֹף שֶׁהוּא מִמִּלָּא מְקוֹמוֹ וְכֹל זֶמֶן שֶׁמְקוֹמוֹ מִלָּא מִמֶּנּוּ לֹא יִתֵּכֵן לְנוֹף אַחֵר לְהִנָּע לְאוֹתוֹ מְקוֹם. The author's view then is clear. Extensity is the ultimate nature of matter; impenetrability is a mere accident.

You may say that though each one of these moulded objects has different dimensions, yet they all have the same amount of voluminousness, i.e. ten cubic cm. But melt this piece of wax and you get a different quantity altogether. Hence, when the geometrician comes to represent the ultimate essence of this piece of wax and draws a figure ten cubic cm. in volume, he is wrong, because the quantity changes, while our notion of substantiality implies an immutable and indestructible nature. But if the latter is not to be found in the specific amount of extensity, it is to be found in the *abstract* notion of extensity.⁴⁴ When a gas is condensed into a liquid, and that in turn into a solid, the quantity of extensity varies of course, yet they are all extended in the same degree. And the essence of matter is extensity. But does not the compressed liquid have less of extensity than the free gas? Yes, but extensity as the ultimate nature of things is not to be viewed quantitatively, but qualitatively. It is the quality of matter to be extended just as it is the quality of man to live. And from this standpoint a blade of grass and a vast landscape exhibit the same degree of the *quality* of spatiality. It is this indivisible spatiality which forms the essence of matter, and any question of more and less confuses the argument by introducing a foreign element, i.e. quantitative spatiality.

This view of Abraham Ibn Daud was adopted by the famous disciple of Maimonides, Joseph Ibn Aknin.⁴⁵ And

⁴⁴ See *Emunah Ramah*, I, 1, 2.

⁴⁵ See Moritz Lewin, *Drei Abhandlungen*, pp. 12, 13: שהנשם מליצה מהדבקות אשר אפשר שיונחו בו שלשה שלוחים כריתותם על זווית נצבות ואחד השלוחים יקרא אורך והאחד רוחב והשלשי עמק ר"ל גובה וזה הוא ענין הנשמות הנמצא בחיולי ראשונה בלתי בחינת צורה אחרת ואינה נפש ר"ל כי השלשה שלוחים (And here one codex has the following insertion :

it is strange that Don Isaac Abrabanel⁴⁶ ascribes this view to Ibn Aknin, and gives no credit to Ibn Daud. Interesting are the two objections that Abrabanel quotes to this profound view—objections that do not evince a full grasp of Ibn Daud's theory. One objection is attributed to Averroes, and may be stated as follows: Extensivity means continuity; and when a continuous object is broken up it loses its former continuity; hence extensivity is itself transient, and presupposes another immutable essence which we might term substance. But this objection evidently loses sight of the distinction between quantitative and qualitative space: when a body is broken up, its quantitative extensivity is lessened, but its qualitative extensivity remains unchanged. Strangely enough, even Ibn Aknin, who follows Ibn Daud in his view on space and matter, apparently attempts to reconcile this view with Averroes's objection, and explains it thus:⁴⁷ True that extensivity is the essence of matter, but it is only the formal essence; for

אינם עצמות הגשם מאשר הם בפועל כי יקבלו השווי התוספת והחסרון והצורה העצמית לא תומר ולא תתחלף א"כ הצורה היא הרביקות לבד לא . . השלוח כי השלוח מקרה ממאמר הכמה יומר ויוסיף ויהסר בחומר האחד . . . הנה הצורה אינה השלוח אבל הרביקות אשר יונח בה (השלוח והגשמים כולם משתתפים בצורת הרביקות)

כי הנה כת אחת מהם חשבו כי: 18, p. שאלות שאל הכהן. See⁴⁶ הצורה הנשמות היא הרבקות ושהמרחקים הם מקרים בו ושמוזה היה אבו אל חנאג יוסף יחייא הישראלי המערבי ונמשך אחריו אבו חמד ומפני זה נדר הגשם שהוא שאפשר שיונחו בו שלשה שלוחים נחתכים על זווית נצבות.

ונבאר זה ונאמר שהגשם מליצה מהרבקות והרביקות אינו⁴⁷ *Ibid.*: מקבל הפירוד והמקבל הוא אשר ישאר עם הקבלת והרביקות לא ישאר עם קבלת הפירוד אבל הפירוד יעדר ממנו והוא בלתי מקבלו הנה המקבל דבר בלתי הרביקות ועליו ישוב הפירוד והרביקות כבא זה אחר זה. It is strange that Averroes is not mentioned.

since it is itself a variable, there must be an external hylic essence behind it. But there are two fallacies in this argument. First, if extensity changes, it cannot be form which is coeternal with the *hyle*; secondly, extensity qualitatively considered is unchanging, and there is no difficulty at all. The second objection, anonymously quoted, also misses the real point. How can we conceive of extensity without the notion of dimensions? Of course it is conceivable, just as life is conceivable as a *quality* without the notion of the *quantity* of its duration. Space as a quality is simple and indivisible, and this is the ultimate nature of matter; space as a quantity is composed and divisible. It can be augmented and lessened, and is a pure accident of matter.

It is to be regretted that this novel and profound view of space did not find more adherents in Jewish philosophy. Perhaps it was too advanced for the period. It was one of those sparks of truth flashing before their time, soon forgotten in the surrounding darkness. After Aknin, the view of Gabirol, Abraham bar Hiyya and Joseph Ibn Zaddik was resumed in its original vague form. Moses Narboni,⁴⁸ Shem Tob b. Shem Tob,⁴⁹ Abraham Bibago,⁵⁰ Aaron of Nicomedia, the Karaite,⁵¹ all teach that space is the ultimate

⁴⁸ *Ibid.*, p. 9 b: אמר החכם הנרבוני כי ירצה הצורה הנשמיות אשר היא המרחקים המיטולחים הבלתי מוגבלים בעצמם והיא הצורה האחרונה הנפסדת. It is not clear what he meant by 'indeterminate space' as form of matter, Abrabanel (*ibid.*, 19 a) rightly objects that form is actual, and everything real and actual is spatially determinate. Perhaps Narboni also had in mind the pure and qualitative extensity of Ibn Daud.

⁴⁹ *Ibid.*, p. 10 b.

⁵⁰ *Ibid.*

⁵¹ See his work called *Eṣ Ḥayyim*, ed. Delitzsch, Leipzig, 1841, p. 43: וידעת מה ש'יתבאר בס' המחקר כי הקו הוא אורך בלי רוחב ובלי עמק

form, the essence of corporeality. As no one of them added anything original to the conception, they may be dismissed without comment. The problem of space and the ultimate nature of matter did not cease to perplex the minds of thinkers, and as late as the sixteenth century we find a certain Rabbi Saul, a pupil of Elijah Delmedigo, still groping his way, unable to grasp how pure extensity can be the material essence of all things, turns to Don Isaac Abrabanel to lead him out of the tangle. Abrabanel analyses the various views and finally decides: Space is only an accident of things, an unessential element in the conception of matter.

Thus, to sum up, there are two rival views in Jewish philosophy as to the problem of the relation that space bears to matter, the Aristotelian and the pseudo-Platonic. Some uphold the first theory and maintain that space is not an essential nature, that we might conceive an unextended book or table, indeed the whole world of matter, in a pin point. Others are shocked by this view. If there is any matter at all, it must be spatial. This is how the mind conceives of matter as distinguished from spirit. The one is a *res extensa*, the other a *res cogitans*. Thus while some of the adherents of the latter view, like Isaac Israeli of Kairwan and Aaron of Nicomedia the Karaite, go as far as

והשטח הוא הארך ורחב בלי עמק והגוף הוא אורך ורחב ועמק וא"כ על אלו הרחקים הוסכמה מלת גוף וכל העצמים בין היותם דומים בין היותם בלתי דומים ויהיו להם אלו הג' רחקים שהם ארך רוחב ועמק שם גוף כל דבר שיש. Compare an earlier Karaite of the middle of the twelfth century, Judah Hadassi, who in his *Eshkol Hakofer*, ch. 65, defines matter as that which has length, width, depth, and *thickness*: כל דבר שיש לו, implying that tridimensionality needs yet another element, perhaps, hardness, in order to constitute matter. Aaron evidently disagrees.

imagining the world, stripped of its accidents, which are superfluous both logically and ontologically—the world in its essential and permanent nature, a network of fine lines like telegraph wires without the poles, the meshes corresponding to concrete objects; others do not take such a thoroughgoing geometrical view of reality, and assume the existence of some hylic nature filling the great vacuum, together constituting matter. This substantialistic view of space is further modified by Ibn Daud, who is followed by Ibn Aknin. Space is the essence of all things, not as quantity, for then it is a variable compound, and cannot be therefore ultimate reality, but the simple and indivisible quality to be extended, which is present in the same degree in the tiniest grain of sand and in the unmeasurable ocean.

III. In the preceding discussion the reader was undoubtedly impressed by the fact that while the pseudo-Platonic and the Aristotelian or Cartesian views found their representatives in Jewish philosophy, one seeks in vain for any traces of the Kantian doctrine on the subjectivity of space. This may be a source of disappointment or gratification, but it is not strange. The mediaeval thinkers were not yet so critical and distrustful with regard to their senses. Their theory of knowledge was absolute empiricism. Why should we doubt the existence of a thing which we may see and feel in various ways? Hence even those who upheld the view of the accidental nature of space, nevertheless agreed that it is a characteristic indispensable—at least in experience—of every material object. It was with them an axiom of unquestionable certainty that all existent things are extended.

But this leads us to another problem which played a very prominent rôle in the history of thought. Suppose

we take a material object and divide it and subdivide it, and carry on this process of subdivision *ad infinitum*. Of course the extensity of the thing will shrink and shrivel, but in this process of subdivision are we ever going to reach a piece of matter so infinitely small as to be altogether unextended? Our first thought answers: Yes, every process must have an end. But this would contradict our previous conclusion that matter must have magnitude, unless of course we assume that in this infinite process of division matter together with space is annihilated—a very improbable assumption, because it questions the law of indestructibility of matter, which no mediaeval thinker would dare. Briefly, the problem of infinite divisibility of space, and hence also of matter, presents itself for our attention.

The doctrine of infinite divisibility is as ancient as Aristotle, and together with all other views of this matter, it held sway over human minds in the Middle Ages. But the Mutakallimun, the Arabian theologians whose influence on mediaeval thought was not insignificant either, held a different view on this matter. They were atomists. Apparently it is strange that a system which was founded by Democritus, and developed by modern scientists with no other motive than the removal of an intelligence, working behind the veil of phenomena, was advocated also by theologians who sought to bring the theological element of nature to the foreground. But really those Arabian scholastics were not inconsistent in this regard. The Greek and the modern atomists considered the atoms ultimate realities unbegotten and indestructible, whereas according to the Mutakallimun atoms perish, and new atoms are born at every moment. Along with the atomism of space there

is an atomism of time. There is a continuous creation as well as a continuous destruction in the whole universe. An angel of death and an angel of life walk arm in arm in the infinite voids of space and time. There is nothing lasting two moments—is the favourite maxim of those thinkers. What then is it that abides in the midst of the universal and eternal change and decay? Nothing else than the Deity—answer the Mutakallimun triumphantly. Thus atomism is accorded a prominent place in the theological system of the Arabs.

I mentioned the atomic theory as disputing the field with the Aristotelian notion of infinite divisibility. The reader may not at first realize the dispute between the two theories. An explanatory word is necessary. Etymologically, 'atom' means indivisible. But the term 'indivisible' is ambiguous. The chemist seeks to know the elements that enter in the composition of a certain piece of matter and the proportion of their reaction, and when he gets at the unit of reaction, at that tiny being which is just big enough to unite with others and form this visible universe, he is satisfied. He has the atom; and indeed, chemically, it is no further reducible. The physicist, however, who is interested not only in its mode of reaction upon others but also in its own independent nature, finds that 'indivisible' is a misnomer. Minute as it may be, it has magnitude and part out of part, consequently it is a composite. Thus we see that the chemical notion of indivisibility does not conform to the physical notion. Now the Mutakallimun considered the atom indivisible in this last physical sense, while the Greek and the modern scientists use the chemical notion of indivisibility. The Moslem theologians think that matter is composed of

ultimate particles indivisible and altogether spaceless by themselves, forming space by their combination. We see now wherein Arabian atomism opposes the Aristotelian doctrine of infinite divisibility. It maintains that if you will carry on your process of division long enough, you will eventually reach an atom indivisible, and filling no space at all, a mathematical point.

Did Jewish philosophy endorse the atomistic doctrine of the Kalam? Our answer is in the negative. Altogether the Kalam was not a prevalent doctrine among the Jewish thinkers, though it found adherents in Karaite circles;⁵² but Arabian atomism, as distinguished from the Greek and modern type, was wholly rejected. Ibn Ezra⁵³ and Judah Hadassi the Karaite⁵⁴ accept the atomic theory; yet the latter thinker does not commit himself on the question whether the atom has magnitude, and the former states explicitly that the atom takes up space. In fact, Jewish philosophy is unanimous in opposition to this type of atomism, and in favour of the Aristotelian doctrine of infinite divisibility. Let us examine some of its arguments.

Already Isaac Israeli of Kairwan,⁵⁵ elder contemporary of Saadya, devotes considerable space to the atomistic doctrine of finite divisibility. He refers to Democritus whom he misunderstands. Democritus, according to Israeli, maintained that matter is composed of spaceless atoms,

⁵² The Karaite thinkers were generally inclined towards the Kalam. Indeed, they even assumed the name of Mutakallimun. See *Cosari*, VI, 5. The Rabbanites, however, were usually Aristotelians. *Comp. Guide*, ed. Munk, I, 339, note 1.

⁵³ See *Kerem Hemed*, IV, 2. On the authenticity of these fragments see Schreiner, *Der Kalam in der jüdischen Literatur*, p. 35.

⁵⁴ See *Eshkol Hakofer*, p. 65.

⁵⁵ See his *Book of Elements*, ed. Fried (Drohobycz, 1900), p. 43.

or points. But the union of two points can be conceived in two ways: either the totality of the one unites with the totality of the other, or a part of the one comes in touch with that of the other. Now the first case leaves no separation or distance between the two points, and hence the result of the synthesis would be a point, and the second case involves the contradiction of a partial union of atoms that are by hypothesis spaceless and devoid of parts. For by a spaceless object we understand something which has no opposite sides: that point which indicates its beginning also indicates its end. Consequently mathematical points can never produce an extended object.⁵⁶ The underlying idea of the second part of the syllogism, namely, that any object that has two sides, has part out of part, and is therefore spatial, recurs in the works of the second Israeli⁷⁵ and of Aaron of Nicomedia.⁵⁸

Saadya also combats vigorously the conception of mathematical points as the ultimate unities of extension. An indivisible atom, finer than any fine thing conceivable, almost a spiritual essence, is altogether unintelligible.⁵⁹ But he also realizes the tremendous difficulty connected with the theory of infinite divisibility. If a body can be divided *ad infinitum*, it must be composed of infinite particles. Infinite means endless, that is, there is no end to the particles in any given distance, great or small. There is a difficulty already, namely, that of a given finite line being infinite, for a line is the sum of its particles. Let us, however, overlook this ontological objection and ask a simpler question. We constantly see before us things

⁵⁶ This ingenious argument is drawn from Aristotle's *Physics*, VI, 1.

⁵⁷ *Yesod Olam*, I, 23.

⁵⁸ *Eṣ Ḥayyim*, p. 7.

⁵⁹ *Emunot*, p. 63.

moving, but how is motion possible? Imagine a given line AB having infinite particles, and a point P moving from A to B . Now it is absolutely immaterial



whether AB represents a mile or a yard or a fraction of an inch, it is infinitely divisible, and has infinite parts. And the point P must move over one part after another, one after another; and in order to land at B , it must have completed an infinite track, and reached the end of an endless series, which is impossible and absurd. It can also be shown that P cannot even commence to move, for the tiniest bit of the line is infinitely divisible, and P finds before itself an immeasurable abyss in order to reach the very next point. All of which goes to prove that motion is a mere illusion, or else the theory of infinite divisibility is false.⁶⁰

The reader will have recognized the paradox of Zeno of Elea. The difficulty is truly tremendous to-day no less than twenty-five centuries ago. Saadya states that this objection led some thinkers to reject the theory of infinite divisibility—which means to face other difficulties; others—to assume that the moving point hastens some part of the way in order to make up for the infinite—which is the view of the Najimites; and, as Schahrastani remarks, hasty or slow, it must go through an infinite;⁶¹ still others—to maintain that time is also infinitely divisible, each infinitesimal space corresponding to an infinitesimal time, and altogether P moving over a finite space in a finite time—an explanation which only intertwines one difficulty with another. Saadya's own explanation is as follows. The

⁶⁰ *Ibid.*, p. 59.

⁶¹ See Schahrastani (Haarbrücker), I, 56.

theory of infinite divisibility claims by no means that there is actually unlimited division. The fact is that if we continue to break up a given particle long enough, we eventually reach a *minimum sensibile*, and there our process of division must end. By means of magnifying glasses and exceedingly fine instruments this *minimum sensibile* becomes a composite, and is further divisible; the limit of division is pushed a little further, but a limit there is after all. Thus there is no such thing as infinite divisibility as far as actual experience is concerned. All that is claimed is, that the *mind* conceives no limit to the possibility of dividing a given body, for this reason: that small as an object may appear to our senses, we may conceive of a microscope that magnifies the object a hundred-fold, and when the *minimum sensibile* is reached under this lens we may exchange it for another that has the power to magnify the object a thousandfold, and number is infinite. Consequently we can *mentally* divide an object *ad infinitum*; but only mentally, in reality we sooner or later get an ultimate empirically irreducible unit, a *minima pars*. Hence the possibility of motion which is a phenomenon of reality.⁶²

The explanation is by no means clear and cogent. Chiefly there is this difficulty. We may fail to dissect an object experimentally into an infinite number of parts, but if our reason for maintaining the theory of infinite divisibility is valid—and Saadya claims that it is valid within its sphere—there are in that object an infinite number of points which, though empirically unknown, the moving body must pass over successively until the end of the endless series is reached, which is absurd. Thus Zeno's paradoxical ban on motion on the basis of the assumption

⁶² See *Emunot*, p. 59, and compare *Cosari*, p. 183.

of infinite divisibility is scarcely removed. Saadya's view might suggest the existence of two kinds of space—one perceptual and real, the other conceptual and ideal; the former of a discrete nature, the latter continuous and infinitely divisible, so that both our perception and our reason are unerring within their distinct spheres; but it is highly improbable that Saadya would have taken such a dualistic standpoint. Briefly, then, Saadya introduced Zeno's paradox in Jewish philosophy, but could not explain it himself. This was left for a later thinker.

A strong plea for infinite divisibility is found in the second book of Gabirol's *Fons Vitae*. Extensivity and indivisibility, he argues, are altogether two different kinds of being, the one is matter and the other spirit; and it is impossible to reduce one kind of being into an essentially different one. Hence the impossibility of matter being composed of indivisible and spaceless atoms, or, as Gabirol calls them, *minimae partes*.⁶³ It is not denied that there is a *minima pars* as far as our perception is concerned.⁶⁴ There is a *terminus a quo* to human vision. We cannot see very well a magnitude smaller than a hair's breadth. But the visual *limen* is not one for all men. It is relative only; a very keen eye may see things entirely hidden from the normal sight. Our perceptual *limen* does not at all empty

⁶³ *Fons Vitae*, p. 57: 'Impossible est invenire partem quae non dividitur, eo quod omnes longitudines corporis sunt divisibiles usque in infinitum et necesse fuit omnes longitudines corporis esse divisibiles usque infinitum ideo quod impossibile est aliquid resolveri in non genus suum si enim proposita pars quantitatis resolveretur in partem quae non dividebatur, necesse esset quod pars illa aut non esset aut esset substantia simplex.' Comp. Israeli's *Book of Elements*, pp. 43, 47 ff.

⁶⁴ 'Non est impossibile hanc partem esse minimam partium quantum ad sensum non in se.' *Ibid.*, p. 56.

the ontological existence of a *minima pars*. If mathematical points were the ultimate constituents of matter, the whole world would be no greater than a mathematical point.⁶⁵ For the whole has no other qualities than those of its parts, the qualities of which may be magnified quantitatively, as ten burners will have a greater heat capacity than one, but the synthesis does not create any new qualities. If, then, the constituent elements do not possess the quality of extension, how can their aggregate be extended? And if the aggregate is not extended either, then we would have a case of a whole being equal to its part, contrary to the well-known law that the whole is greater than its part.⁶⁶ This latter contention is not very convincing. A part may be taken in the physical-spatial sense like an inch in a yard of extensity, or in the spiritual-spaceless sense like the will in consciousness. Obviously we may say that volition is a part of our conscious life without being forced to say that our consciousness must be quantitatively greater than our volition. As soon as we ascend to the domain of spirit we must leave the whole category of magnitude behind. Now, adhering to Gabirol's own standpoint that an indivisible unit must be of a spiritual nature, we are not subjected, with regard to the aggregate of such units, to the physical law that the whole must be greater than its part. Gabirol's

⁶⁵ *Fons Vitae*, p. 52: 'Similiter etiam si posuerimus punctum esse partem corporis et corpus est compositum ex suis partibus, hoc est punctis quod tibi videtur; necesse est ut totalitas corporis non sit divisibilis quoniam partes eius indivisibiles sunt.'

⁶⁶ *Ibid.*, p. 57: 'Si duae partes coniunctae non fuerint pars divisibilis, ipsae duae tunc et pars una aequales erunt ergo duo aequalia uni quod est inconueniens, similiter etiam dicendum de tertia et quarta parte, usque in infinitum. Sed si compositum ex omnibus fuerit pars una non divisibilis, hoc est, si plures partes sint aequales uni parti: ergo corpus totius mundi erit aequale uni suarum partium quae est indivisibilis.'

first contention, however, that if the atoms are conceived to lack the quality of extension, they cannot form in their aggregate any extended matter, for the synthesis does not give rise to any new qualities, is perfectly valid.

An equally strong defence for the theory of infinite divisibility was made by Maimonides in his *Guide*. He clings to the Aristotelian theory that a moving object must be divisible,⁶⁷ that an indivisible object must be immovable and hence immaterial. He shows the absurdity of the view that there is an atom which does not fill itself any definite place, and yet somehow or other keeps an atom of space occupied. The reader of general history of philosophy will here recall the Monads of Leibniz. Indeed, Munk has already called attention to a striking parallel to this view of the Mutakallimun, found in Leibniz's *Epistolae ad P. des Bosses*, where he remarks: 'Substantia nempe simplex etsi non habeat in se extensionem habet tamen positionem, quae est fundamentum extensionis.' Also one of the later Jewish thinkers, Joseph Albo, defines the point

⁶⁷ See Aristotle's *Physics*, VI, 7. He derives this idea that a movable object must be divisible from the conception of change of which locomotion is one type. Maimonides' formulation of the whole doctrine is as follows: כל משתנה מתחלק ולזה כל מתנועע מתחלק והוא גשם בהכרח וכל מה שלא יתחלק לא יתנועע ולזה אי אפשר שיהיה גשם כלל (see *Guide*, II, prop. 7). I did not connect, however, the idea that motion implies divisibility with the similar idea of change, for the reason that the latter was very much disputed both in Arabian as well as in Jewish circles. Some forms of change are apparently sudden and involve no divisibility. Personally, I think that the theory that a movable object must be divisible, is not dependent on the notion of change. It can be inferred from the *Physics*, VI, ch. 1, where it is argued that motion implies a front and a back side of the moving body, and anything that has two extremities is extended and divisible. This, indeed, is the way that Aaron of Nicomedia formulates it: שכל מתנועע יש לו קדימה ואחור ובהכרח יקבל החילוק. See *Eṣ Ḥayyim*, p. 7.

as beyond the category of space, but having position.⁶⁸ But how can a thing exist in the physical universe, not in a space garb? And how does a mathematical point monopolize a definite space when it is itself in no need of it? 'Such things', Maimonides therefore concludes, 'are only said; they exist only in words, not in thought, much less in reality.'⁶⁹ Another objection to the Mutakallimun's standpoint is how could we bisect a line composed of an odd number of atoms.⁷⁰ One might say that, since the atom has no magnitude, it is really of no consequence for an exact spatial division; but strangely enough, according to the Arabian thinkers, it has a magnitudinal value in conjunction; hence that side which will own this middle atom will be more extended than the other. Consequently an exact division in this case is impossible. This last argument was also advanced by Maimonides' imitator, Aaron of Nicomedia, the Karaite, in his work called *The Tree of Life*.⁷¹

Finally, the problem of infinite divisibility received a new treatment in the work entitled *The Wars of God*, by the acute thinker Levi b. Gerson, or Gersonides. He reiterates the idea that a thousand mathematical points could not produce anything more than a point.⁷² He points out that matter has a property called continuity (*hitdabbekut*), by virtue of which it may be divided and subdivided *ad infinitum*, and the most infinitesimal parts

⁶⁸ *Dogmas*, p. 124. Compare, however, Isaac Israeli in his *Yesod Olam*, I, ch. 2, p. 3.

⁶⁹ See *Guide*, I, 51. This view of the Kalam is also stated in the Karaitic work, *The Tree of Life*, p. 13, comp. *FV.*, 65.

⁷⁰ *Guide*, I, ch. 73, third premise.

⁷¹ See p. 7.

⁷² *Milhamot*, Leipzig, 1866, p. 345.

will still be extended and again continuous,⁷³ a view that coincides with the Kantian. But his most original contribution to the problem of infinite divisibility is his solution of Zeno's puzzle, thereby changing the whole meaning of the concept. We have seen how Saadya grappled with that puzzle and scarcely overcame it; we are now to see how Gersonides, four hundred years after, finally solved it—a solution well worth serious consideration on the part of present-day thinkers. Perhaps we had better let him talk for himself. He has just proved that the very notion of quantity in any of its forms, temporal or spatial, implies finitude and limitations, and he remarks: ⁷⁴ 'Perhaps some one will question the argument just advanced, saying that there is one phase of quantity suggestive of the infinite, namely, the fact that number is infinitely augmentable and quantity is infinitely divisible; and it is also clear that quantity as such is infinitely augmentable, for it is not impossible that quantity as such should be greater than the universe. True, there is something that prevents the possibility of having matter larger than the universe, namely, the fact that there is no space beyond the universe, as the *Philosopher* (i.e. Aristotle) has shown; but it is not impossible for matter as such. . . . Our answer is that it is evident after a little thought that this objection is unable to overthrow our premise which we have laid down before, namely, that quantity as such is of necessity finite, for the nature of quantity necessitates finitude, as already explained. *But the endlessness that we find as characteristic of number and extensity is not endlessness in quantity, but endlessness in the process of division and augmentation.* That is to say, much as you divide it, the

⁷³ *Ibid.*, p. 333, also p. 346.

⁷⁴ *Ibid.*, pp. 333-4.

capacity will still be left for further subdivision; and much as you augment it, the capacity will still be left of further augmentation. Yet divide and augment as you may, you will always have quantitative finitude, for number does not have such power as to change into non-number (i.e. infinite), but it does have the power to change into greater numbers. Thus it can never turn into an infinite, for it has been already explained that number is finite. The same is true of extensity. . . . And from this explanation it will become clear that extensity has no infinite number of parts whether potentially or actually, for if it had an infinite number of parts potentially or actually, a great absurdity would follow, namely, that a given finite extensity would be infinite, for that which is composed of an infinite number of parts must be infinite in extensity, for any one of these potential parts has of necessity some quantity, for extensity cannot be divided into non-extensity; and it is evident that, however minute the extensity each one of the infinite parts may have, the whole will certainly be infinite in extensity. . . . Hence what we mean by saying that extensity is infinitely divisible is that each part retains the possibility of being subdivided, though the number of parts always remains finite.'

This whole discussion involves Gersonides' great contribution to the notion of the infinite divisibility—which will be discussed in a later chapter. The keynote of the argument however is clear, namely, that infinite divisibility is not a state but a process, not an accomplished fact; for it is ridiculous to speak of an ended endless series, but the unlimited possibility of dividing and subdividing extensity into smaller extensities. And if one were to live thousands of years and were constantly engaged in dividing

and crumbling a piece of matter, with unimaginably fine instruments, he would have at the end of that time an unthinkably great number of particles of course, but it would be a finite number nevertheless. Prolong the life of that miserable man, and the world would be enriched by so many more particles, but the sum total will be finite again. The number of grains of sand on the shore of the sea is overwhelming; but it is a definite and finite number. It is absurd and contradictory to speak of an existing infinite number. Infinite divisibility denotes a process, but not a state. Such is the solution of Gersonides. It rids us at once of the haunting ghost of Zeno which continued to appear as soon as we had infinite divisibility on our lips. Gersonides showed us how to make of it an intelligible theory.

We are now ready to draw a line under the first general inquiry of our work. The problems that so far occupied our attention are connected with the conception of empirical space, i. e. with that part of space which has embodied itself in concrete tangible matter, and has become therefore an object of experience. We have seen how the Jewish thinkers never doubted the independent objective reality of space as presented to their senses. They differed as to its ontological importance in the make-up of things, they took issues as to its accidental or substantial nature, but no one questioned its independent existence. Thus the Kantian view of the subjectivity of space, which puts all extensity at the mercy of our senses, is far removed from the Jewish standpoint. Some thinkers, we have seen, even go to the extreme in maintaining that space is the sum and substance of all material existence, the substantial groundwork of all things. Perhaps this distinctly empirical standpoint is

somewhat responsible for the general Jewish opposition to Arabian atomism with its assumption of a real yet spaceless particle as the basis of the material world. At any rate, Jewish thinkers all upheld the indestructibility of extension by means of division, that space is infinitely divisible—a theory the tremendous difficulties of which were altogether removed by Gersonides, who showed that the notion of infinite divisibility denotes a process rather than a state.

(To be continued.)

STUDIES IN THE BOOKS OF SAMUEL

BY M. H. SEGAL, Newcastle-upon-Tyne.

II

THE COMPOSITION OF THE BOOK.*

32. THE Book of Samuel relates the story of the origin and establishment of the monarchy in Israel. The author does not aim, at least in the first part, at giving us a history of the period. He contents himself with placing before the reader a number of vivid sketches of the lives and acts of the chief personalities who effected the great transformation in the national life of Israel. The real heroes of the book are only two: Samuel and David. The third great personality of the period, King Saul, does not occupy in the mind of the writer a position of such prominence as the other two. The story of his life and works is throughout made subordinate to the story of one or the other of the two principal heroes.¹⁸ Thus in chs. 8-15 Saul is treated as a mere appendage to Samuel, and in chs. 16 ff. as a mere appendage to David. There are also other lesser personalities whose history is dealt with in our book, but only in so far as they have a more or less direct connexion with the two principal heroes. Such personalities are Eli and his sons, Jonathan, Ishbosheth and Abner, Absalom and Sheba, and

* Cf. above, pp. 267 ff.

¹⁸ This statement refers only to the author of our book. The sources used by him may have been written from quite different points of view.

many others. They serve everywhere but as a foil to set off in greater clearness the fortunes and achievements of Samuel and David. We may thus divide the book into two principal parts: the Story of Samuel, I, 1-16. 13; and the Story of David, I, 16-II, 24.¹⁹ It must, however, be confessed that this division is adopted purely for our own convenience. There is nothing in the book itself to signalize the conclusion of one story and the beginning of another. On the contrary, the author has purposely contrived his narrative in such a fashion that one division glides into the other quite naturally and almost imperceptibly, without any break whatever between the two.

THE STORY OF SAMUEL.

The story of the life and work of Samuel is given by our author in three distinct portions: (1) Birth and childhood of the prophet—Samuel and Eli, chs. 1-7. 1; (2) The prophet in his manhood—Samuel as Judge, ch. 7. 2-17; (3) The prophet in his old age—the establishment of the Monarchy, chs. 8-16. 13.

I. BIRTH AND CHILDHOOD OF SAMUEL.

33. (ch. 1.) The account of the birth of Samuel and his presentation to the sanctuary in Shiloh, which is given in ch. 1, is told by the author entirely in his own words. Ver. 3 b has been advanced as evidence that the chapter is a continuation of a longer account in which details were given about Eli and the sanctuary of Shiloh. But vers. 1-2, which read like the beginning of a new history, do not

¹⁹ 1 Kings chs. 1-2 also belong to the story of the establishment of the Monarchy; but in this paper we are only concerned with the Book of Samuel.

support this theory. Moreover, the text of 3 b is uncertain. The reading of the LXX is: *ושם עלי ושני בניו ח' ופ'*. It is, however, questionable whether the LXX reading is the more original. For, while it may be explained as a deliberate correction of MT, designed to give a formal introduction of Eli also, it is difficult to explain how MT could have arisen out of the reading of the LXX. Perhaps Eli's presence at Shiloh was so well known to the author's contemporaries as to require no special mention. Further, it must be noted that, owing to his extreme old age, Eli no longer officiated as priest; cf. 2. 12 ff. and ver. 22. Budde's reading *ושם עלי כהן לה'* (*Richter u. Samuel*, 196) is certainly wrong; for the sons, as well as Eli himself, require a special introduction by name. Their names in 4. 4, 11, 17 seem from their order in the sentence to be a gloss. Yet Phineas is mentioned in 4. 19 without the epithet of *בנו*, which proves that he had already been described before. But, omitting the names in 4. 4, 11, 17, he is only mentioned by name in 1. 3 b, a fact which supports the reading of MT or LXX.

34. (ch. 2.) The insertion of the Psalm of Hannah in 2. 1-10 may have been made by the author himself. In the same way the author inserted the elegies in II, 1. 18-27 and II, 3. 33-4. The poem is not so late as the critics maintain. When we come to investigate its construction and contents in a later instalment of these STUDIES, we shall show that the last two lines

ויתן עז למלכו
וירם קרן משיחו

are a later liturgical addition. But such an addition could only have been made in the period of the Monarchy;

hence the poem itself must belong to the middle or early period of the Monarchy. However, it seems more probable that, like the poems in II, 22; 23. 1-7, the Psalm was placed here by a later scribe. This view is favoured by the textual variations immediately before and after the poem (1. 28 b; 2. 11 a) exhibited by MT and various recensions of LXX, which tend to prove that the text had been retouched and left in a state of uncertainty through the insertion of the poem. But this would not have been the case had the poem been inserted by the author himself.

35. From Samuel's presentation to the Sanctuary the author passes on in 2. 11 ff. to narrate the story of Samuel's childhood. Here the author had to tell how Samuel developed from his early childhood into a pious and trusted servant of God; how he became a prophet, and what was the subject of his first prophecy. He had further to describe the events which resulted in the return of Samuel to Ramah, and in his becoming the only guide and leader of the nation. He had to narrate the story of the destruction of the house of Eli, and of the capture and wanderings of the Ark, which deprived Israel of a religious centre, and of its former leaders, the priests. But the author did not choose, as in ch. 1, to tell this part of his story in his own words. He preferred, as in chs. 9 and 17, to embody in his narrative portions of an older document describing these events. These borrowed portions are to be found in 2. 12-17; 22-5; 27-36; ch. 4. The arguments for such a view are set forth from a different standpoint by Dr. H. P. Smith in his *International Critical Commentary on Samuel*, pp. xix-xx. The passages enumerated are silent about Samuel. They do not necessarily presuppose the particulars given in the rest of the narrative.

This latter, on the other hand, is dependent on the story of the house of Eli, and is artificially connected with it by the links in 2. 11 b, 18, 26; 3. 1 a. The Eli portions of ch. 2 may easily be removed from their present context, and joined together into a tolerably connected and independent narrative. The Samuel portions, on the other hand, cannot be separated from their present context in a similar manner. Since, therefore, the Eli story is indispensable for the development of the story of Samuel's childhood, and as such forms an integral part of it, it is obvious that the verses enumerated above are not merely redactional links, but really belong to the author of the story of Samuel's childhood. Hence we are led to the conclusion that the author of the Samuel story incorporated into his narrative material from an older source describing the fortunes of the house of Eli, and linked it up with his own account of Samuel.

36. The same arguments apply also to chs. 4 and 5-6. In none of them is there any mention of Samuel.²⁰ This silence about Samuel does not, however, prove, as the critics maintain, that the older document knew nothing of Samuel's greatness. It only proves that owing to his youthfulness at that time, Samuel did not exercise any influence on the events narrated; and further, that the older writer was not specially interested in the story of Samuel. Our own author, on the other hand, has his exclusive interest in the story of Samuel, and had chs. 4-6 been his own original composition, he would no doubt have contrived by one means or another to connect the events of these chapters with the life of his hero, just as he did in chs. 2-3.

²⁰ On 4. 1 a see Driver's note *ad loc.*

37. According to this view, the prophecy in 2. 27-36 is older than our author's own work, i. e. older than ch. 3.²¹ The majority of the critics, however, regard this passage as a post-Deuteronomic production. They think that in its original form the prophecy predicted the transference of the religious leadership from Eli to Samuel, but that a later editor brought the prophecy into connexion with the fall of Ebiathar and the rise of Zadok in the days of Solomon (1 Kings 2. 27). This theory is, however, far-fetched and altogether improbable. Had the prophecy ever been directly connected with the rise of Samuel as religious leader, this connexion would surely have secured the preservation of the prophecy in its original form. And how, it may be asked, could it have been predicted that Samuel would replace Eli and his sons, seeing that Samuel never acted as an official priest, never employed the Ephod in giving oracles, nor did he ever derive any revenues from the priesthood? The contention of the critics that the prophecy is post-Deuteronomic because ver. 36 can only refer to the centralization of the sacrificial worship in the Jerusalem Temple effected by Josiah (2 Kings 23. 8 ff.) is not at all convincing. We have no evidence for this gratuitous identification of the descendants of Ebiathar with the priests of the *Bamoth*. The condition of the house of Eli described in ver. 36 may have existed already in the days of Solomon. The expulsion of Ebiathar from Jerusalem and the rise of Solomon's Temple may have rendered it difficult for the members of the Ebiathar family to find a subsistence as priests. The great *Bamoth* must all have had their own hereditary priesthoods, and as their importance continually declined through the rise

²¹ Cf. Budde, *op. cit.*, 200.

of the sanctuary in the capital, there would have been no room in them for new-comers. And private *Bamoth* had no need of official priests. Thus it may very well have happened even in the days of Solomon and his immediate successors that descendants of Eli came to Jerusalem to beg of the Zadokites for some menial office in the Temple, in order to secure 'a morsel of bread'. This would imply that the prophecy was written down after the erection of Solomon's Temple. This is supported by the anachronistic reference to the king in ver. 35 b β (cf. § 42). On the other hand, it is also possible that vers. 35-6 are a later addition to the prophecy.

38. There is, however, one critic, C. Steuernagel, who goes much farther in his analysis of our passage.²² He holds that the prophecy is of a highly composite character. The first part, consisting of vers. 31 a, 33 a α (to מִזְבֵּחַי), 35 b (without אֲנִישִׁים), was originally a prediction of the slaying of Nob's priesthood by Saul. The second part, consisting of vers. 35-6, is a later addition written after the first part had wrongly become associated with the general fall of Eli's house in the deposition of Ebiathar. This theory is based upon an alleged discrepancy between ver. 33 a and ver. 36. In ver. 33 a it is stated that only one man would be spared of the whole house of Eli, viz. Ebiathar (cf. 22. 20 f.), whereas in ver. 36 it is implied that the whole house of Eli would survive, though in a reduced and humiliated condition. But the latter idea is also implied in ver. 31 b, and ver. 32. Hence, to maintain his discrepancy, our critic declares ver. 31 b and ver. 32 along with 33 a β to be an interpolation! Such is the

²² Carl Steuernagel, 'Die Weissagung über die Eliden' in *Alttestamentliche Studien für R. Kittel* (Leipzig, 1913), pp. 204 ff.

manner in which modern criticism deals with the text of Scripture: first it constructs a theory; then it proceeds to search in the text for evidence of the theory; having by a misinterpretation of the text found its 'evidence', it proceeds to cut out from the text anything that tends to invalidate the 'evidence'. The fact is that this critic errs, along with all moderns, in his interpretation of ver. 33 a. ואיש לא אכרית ממך does not mean that *one particular man* will not be cut off. This would have been expressed by ואיש אחד לא אכרית. The phrase has the same meaning here as in 1 Kings 2. 4; 8. 25; 9. 5, viz. that his house would not be cut off entirely, but that *some one* will always be spared to him in order to testify to his degradation.²³ Thus, the whole fanciful interpretation of ver. 33 a as referring to Ebiathar, and with it the whole of Steuernagel's elaborate thesis, falls to the ground. The truth is, as we have already said, that the prophecy is older than the Samuel story, and thus older also than Samuel's prophecy in ch. 3, as distinctly stated in 3. 12. The antiquity of our passage is proved, as Steuernagel himself observes, by the mention of the carrying of the Ephod as one of the chief functions of the priest. We should, however, omit ver. 31 b as an explanatory gloss derived from ver. 32 b. It is also absent from LXX B. Another gloss to be omitted from our text is found in ver. 22 b בן (ואת אשר וכו'), which is also absent from LXX B.²⁴ Its purpose may have been

²³ Cf. the comments *ad loc.* of Qimhi, R. Isaiah, and Ralbag, the latter of whom says: כדי שיראו ברעתם בהיותם תחת כהן מוישל עליהם תחת אשר היתה להם הממשלה לולי זה החטא ולואת הסבה לא ימותו בניך בעורם קטנים אבל ימותו בהיותם אנשים בדרך שיראו שפלותם ודלותם בעבודת הכהונה.

²⁴ N. Peters, *Beiträge zur Text- u. Literarkritik d. Bücher Samuel* (Freiburg

to offer an explanation why such a terrible retribution was inflicted upon Eli and his sons, since the sin mentioned in vers. 15-17 did not appear to have been of so grievous a character as to deserve such punishment.

39. (ch. 3.) Ch. 3 is, as we have said above, by the author himself. The briefness and vagueness of the prophecy in vers. 11-14 are strong proofs that the author of this chapter already had before him the prophecy in 2. 27 ff. The theory of Steuernagel (*loc. cit.*) that Samuel's prophecy in this chapter was deliberately mutilated, in order to amplify the anonymous prophecy in 2. 27 ff., and that 3. 12 is a 'redactional' insertion is extremely improbable. No redactor would have dared to transfer a prophecy of the great Samuel to some unknown 'man of God'. 3. 1 b does not assert that there was no prophetic activity at all prior to the revelation to Samuel, but only that such activity was exceedingly rare.

40. (ch. 4.) Ch. 4 belongs to the Eli document, and was incorporated by the author from the same source as the Eli portions in ch. 2. Probably chs. 5-7. 1 also belongs to this source, forming the continuation, mediate or immediate, of ch. 4. We must agree with the critics in describing 6. 15 as an interpolation, similar to the interpolation in II, 13. 24.

2. SAMUEL IN HIS MANHOOD.

41. (ch. 7.) In 7. 2 the author resumes his own composition with an account of Samuel's activity in his middle age. Samuel is represented as the religious leader and

im Breisgau, 1899), p. 103, argues for the opposite view that the absence of the clause in LXX is due to deliberate omission. But the description of the Sanctuary of Shilo as **אֹהֶל מוֹעֵד** is decisive against the genuineness of the clause; cf. Driver's note *ad loc.*

Judge of the people. His activity is exclusively of a religious character. He does, indeed, secure a great victory over the Philistines, but only by his intercession with God. The critics are unanimous in denying the historicity of the victory in vers. 7-14. It is true that ver. 14 cannot be correct of Samuel's time. On the other hand, as we have pointed out above (§ 18), it is quite possible that the Philistines did suffer a defeat at the hands of the Israelites in a more or less important engagement during Samuel's manhood, and that, whether as a result of this defeat or of some other factors of which we have no knowledge, the Israelites were left in peace for some considerable time. The statements in vers. 13-14 may have been coloured by the state of things prevailing in the author's own time, so that his general description is merely anachronistic, but not quite devoid of historical truth. The author certainly sought to magnify the political achievements of his hero, but it is unjust to accuse him of deliberate invention or falsification. Wellhausen's theory (*Composition, &c.*³, 240) that the story of the victory at Ebenezer is a deliberate concoction to redeem the defeat at the same place in 4. 1 ff., may be ingenious, but it is certainly incorrect. It is evident that the Ebenezer near the low-lying Aphek, wherever that locality was situated, cannot be identical with Ebenezer near Mizpah in the mountains. There is no reason why there should not have been two sacred stones of the same name.

3. SAMUEL IN HIS OLD AGE.

The Election of Saul.

We have already discussed at some length in the first part of this paper the composition of chs. 8-12. Here it

will suffice to state the conclusion which we reached there, viz. that the whole section emanates from the hand of our author. Chs. 9–10. 16 he borrowed from an older work; all the rest of the section, including the whole of ch. 11, is his own original composition.

42. (ch. 12.) Critics indicate in ch. 12 a number of expressions and phrases which they characterize as Deuteronomic. As the present writer has not made a detailed and independent study of the higher criticism of the Pentateuch, he is not prepared either to accept or to reject this characterization. His experience of the critics in their treatment of the historical books of the Bible has not inspired him with confidence in the validity of their reasoning and in the soundness of their conclusions. But this much may be admitted, that ch. 12 is somewhat different in style from the other portions of our author's work. This is, however, not conclusive against the genuineness or the integrity of the chapter. A homily must necessarily differ in style and diction from the description of a battle or of the life of a primitive sanctuary. Nor need we be surprised at finding in this chapter phrases and expressions which are common to other parts of Scripture. The style and phraseology of hortatory religious literature may have become conventionalized at an early period, and their occurrence in our chapter need not necessarily be a sign of a late date. As for the mention of the name of Samuel placed in his own mouth in ver. 11, it is only another example of the author's habit of slipping into anachronisms, such as we have met with in 2. 35; 7. 14; and 16. 18 (cp. above, §§ 37, 41, 23). On the other hand, ver. 12 does indeed present a difficulty, but this difficulty becomes all the greater if we accept the analysis of the

critics. For according to their analysis this chapter belongs to E, who represents Israel as living in a condition of the most profound peace as the effect of Samuel's victory in 7. 10 f., and who holds that the demand for a king sprang from no other motive except the desire of being like the heathens. But in this verse the writer tells us that the motive of the demand for a king was the fear inspired by the Ammonite king who had invaded Israelitish territory. The critics try to get over the difficulty in their usual fashion; ver. 12, they say, is the invention of a redactor (cf. Budde, *op. cit.*, 187). But how could any person who has read ch. 8 ff. invent such a story and actually insert it in the text? No, the statement in this verse cannot be purely an invention; it must be based upon some actual fact. We do not possess a full and detailed history of the period. For, as has been pointed out above (§ 32) our author does not present us with a history, but only with stories and sketches of the life and works of certain great personalities. It is therefore quite possible that he read in his sources an account of an Ammonite invasion of Israel in Samuel's old age, which had caused great anxiety to the people. According to Judges 10. 7-9, there was an Ammonite oppression of Israel contemporaneous with the Philistine oppression. The attack on Jabesh-gilead (ch. 11) may have been only an incident, though the most humiliating one, of a long campaign. The people may perhaps have become reconciled for a time to the Philistine yoke, but the Ammonite impudence was too much for their sorely-tried patience, and hence the insistent demand for a king who would *fight their battles*; cf. 8. 22 a.

*The Rejection of Saul and the Adventure of Jonathan,
chs. 13-15.*

43. (ch. 13.) The account of the acts of Samuel in his old age is continued by our author in chs. 13-15. As in the previous sections, so also here, the author incorporated into his work an extract from an older source, most probably the same source from which he derived chs. 9-10. 16. This extract extends from 13. 2²⁵ to 14. 46. We are led to this conclusion first by the style and diction of 13. 2-14. 46, which is markedly different from that of the preceding chapters; and secondly by the account of the rejection of Saul given in 13. 8-14. This comparatively tame story could not have been told by one who had written, or even known, the impressive story of ch. 15. It is evident that 13. 8-14 is older than ch. 15. Its presence in our book beside the magnificent later account can only be explained on the supposition that our author incorporated it as part of a longer extract from an old source. He no doubt thought that both stories were true, and that the sentence of rejection was pronounced on Saul twice. As 10. 8 is intended to prepare the reader for this account of the rejection of Saul, we have no hesitation in declaring 13. 2-14. 46 to be a part of the same document as 9-10. 16.

44. The critics, however, have unanimously decreed that 13. 7 b-15 a, as also its antecedent in 10. 8, are an interpolation. They maintain that the proper sequel to 13. 7 a is ver. 15 b. But this is not apparent. Ver. 7 a joins just as well to ver. 7 b as to ver. 15 b. Ver. 15 a does not,

²⁵ 13. 1, which is incomplete and absent from LXX B, is unquestionably a later addition; cf. Driver's note.

indeed, join well to ver. 15 b, but only in MT, which has lost a great part of the verse through *homoioteleuton*.²⁶ If we restore the text as in LXX, which has no doubt preserved the original, we obtain a smooth and intelligible connexion between the two parts of the verse.

45. Again, the critics argue that it is impossible to believe that Saul would have abandoned the highlands of Gibeah to the invading Philistines, and gone down East to Gilgal for no other purpose than to offer a sacrifice at the local sanctuary. But Saul did not abandon the highlands. He left behind him a defender in Jonathan with whatever force he could muster on the spot. And he did not go to Gilgal merely to offer a sacrifice, but chiefly to muster the Israelitish levies from across the Jordan and the North, which had assembled at Gilgal as their trysting-place. This is expressly stated in ver. 4 b, a clause which the critics have either overlooked or misunderstood.²⁷ The critics argue further that the test put to Saul was a senseless one. '*War Samuel bei Sinnen?*' asks Wellhausen (*op. cit.*, 245) with his characteristic audacity. The danger of waiting seven days was so great. But that is exactly the reason why Saul was put to this particular test. The penetrating eye of Samuel must have at once discovered the chief failing in Saul's character, viz. his lack of patience, his rash and reckless impulsiveness. Even our scanty records offer us abundant illustration of this failing in the king's character. Note, for instance, his rash oath in 14. 24;²⁸ his outburst against Jonathan in 20. 30 ff.; his

²⁶ Cf. Driver's note.

²⁷ The excision in ver. 4 b of הַגִּלְגָּל, or its change into הַגִּבְעָה, proposed by some critics, is altogether unwarranted.

²⁸ Cf. particularly the text of LXX; see Driver's note *ad loc.*

murder of the priests, 22. 16. He was given an opportunity by the prophet to prove his patience and his faith in face of danger; he failed, and was rejected. Samuel's judgement has been severely criticized by some of our modern shilly-shally sentimentalists, but history, which is the sole arbitress in such matters, has fully upheld the justice of the prophet's sentence. Saul failed largely because of the failings of his character; his rival David succeeded largely because of his virtues, his patience, his perseverance and self-discipline. That the danger of waiting seven days was after all not so great as the critics assert, is proved by the victorious issue of the war, an issue which would have been much more decisive in favour of the Israelites but for the rashness and impulsiveness of Saul.

46. But, say the critics, Saul *did* fulfil the test; he waited seven days; why then was he rejected? The answer is that the decision whether the test had been fulfilled or not must be left to the narrator. He alone is capable of forming a judgement on the question. His decision is that the test had not been fulfilled, and we must, therefore, conclude that the seven days had not been quite completed when Saul proceeded to offer the sacrifice. Further, the critics ask, why is there no trace of this ominous meeting with Samuel in the subsequent history of the war? Neither Saul, nor Jonathan, nor the people betray in their words or actions any trace of the rejection of Saul. But the *argumentum e silentio* is particularly unconvincing in this instance. Jonathan must have been at the time of the occurrence of the incident away at Gibeah, guarding the passes against the Philistines. The people possibly did not overhear the conversation between the Prophet and the King. Saul's rejection may have

been as private as his anointment.²⁹ As for Saul himself, who can tell what thoughts troubled his mind? Perhaps we may trace the hesitation and lack of initiative which he displays in the subsequent course of the campaign to some mental depression caused by the fateful sentence passed on him by Samuel. His anxiety for ritual exactness in the midst of hard fighting may, perhaps, also have been due to a desire to secure a reconciliation with God and His Prophet. The author himself refrains from saying anything on the state of Saul's mind, because he was too good a literary artist to spoil his spirited narrative by such intrusions. Finally, the critics complain that this episode interrupts the smooth course of the main narrative. This is to some extent true, but such interruption is natural to all episodes, whether original or not.

47. We see no cogent reason for branding the passage as an interpolation, except, perhaps, the fact that it entirely upsets one of the chief theories upon which the critics base their analysis of chs. 8-12, viz., that in chs. 9-10. 16, of which ch. 13 is the continuation, Samuel is represented as merely a village seer without national importance or authority. For in this passage Samuel appears as the great national prophet and leader, almost exactly as in ch. 8; 10. 17 ff. and ch. 12. But we have seen above (§ 16) that this theory of the critics is altogether without any justification. We may, therefore, safely assert that the disputed passage forms an original and integral part of ch. 13. It is the earlier account of the well-known historical fact of the breach between Samuel and Saul. In fact, it is chiefly this passage which

²⁹ From 15. 30a it may be inferred that the conversation between Saul and Samuel recorded there was of a private character.

has secured the incorporation into our book of the whole extract in 13. 2-14, 46. Our author himself, unlike his sources, had his chief interest in Samuel and not in Saul. There is no reason why he should have troubled to supply us with a detailed account of this war with the Philistines, and not rather of Saul's other wars with the Philistines, or of Saul's wars with the other nations, enumerated in 14. 47, or of his struggle against the Gibeonites (II, 21. 2) or with the soothsayers (28. 9), except that the story of this war contained the episode 13. 8-14 which revealed the greatness of Samuel. And having given the beginning of the story in ch. 13, our author incorporated also its sequel in ch. 14, probably out of respect for Jonathan, the friend of his hero, David, whose valour and nobility it illustrates. It may be argued that ver. 14 b, with its clear reference to David, could not have been uttered by Samuel at that time. But even so, it is no proof against the genuineness of the passage. The words are merely a literary anachronism of the original writer, who, knowing the subsequent history of the rise of David, had put these words into the prophet's mouth.

48. In the same way we maintain that the antecedent to our passage found in 10. 8 is genuine and original to the old document in which it is found, and not an interpolation. The verse does not, as the critics allege, break the connexion between 10. 7 and 10. 9. Nor does it contradict the statement in 10. 7. The two verses refer to two different events separated by a lengthy interval of time. 10. 7 refers to the Ammonite war in ch. 11, which occurred within a month after Saul's election by the sacred lot (10. 27 b LXX), while 10. 8 refers to the Philistine war which must have taken place some years later, when the

young king's son had already reached manhood, and had become a hardy warrior. It is true that in our present text the two commands in vers. 7 and 8 appear as contemporaneous; but our text is here fragmentary and probably abridged by the author of our book, who must have omitted a good deal of matter between ver. 7 and ver. 8. We find such an abridgement also between ver. 9 and ver. 10. Our author reproduces there only the fulfilment of the third sign, because of the explanation it gives of the well-known proverb (ver. 12 b), but omits the first two signs, which are not material to his story, and have no special interest of their own to our author or his readers. The critics further assert that 10. 8 implies that Samuel and Saul did not meet again after the latter's anointment until the episode at Gilgal (13. 8-14), thus contradicting 10. 17 ff. and 11. 12 ff. But there is no warrant in the text for such a statement. 10. 8 says nothing more than that, when a certain Philistine war had begun, Saul should go down to the sanctuary of Gilgal, and there wait seven days for the prophet's coming to offer sacrifices.

49. (ch. 14.) The genuineness of 14. 36-45 has been rightly defended by Budde (*op. cit.*, 206) and H. P. Smith (*op. cit.*, 120 f.) against the scepticism of Wellhausen (*op. cit.*, 246), but 14. 47-51 has not been so lucky. This passage the critics brand as a late unhistorical panegyric modelled on, and copied from, that panegyric on David in II, ch. 8. But it is hard to understand how a late writer could venture to ascribe to Saul, the rejected of the Lord, victories which really belonged to David. On the other hand, why should not Saul have engaged in war against the nations enumerated in 14. 47-8? It is true that, with the exception of Ammon and Amalek, we have no other record in our book

of his wars against these nations. But this should not surprise us, since, as we have repeatedly stated above, our book does not pretend to give us a history of Saul's reign, but only a few sketches of his relations with Samuel and David. There are other important acts of Saul which are only incidentally referred to in our book (cf. 28. 3; II, 21. 1 f.). We know from the story of his pursuit of David that Saul's rule extended right into the wilds of the Negeb and south of the Dead Sea. It is, therefore, quite possible that at some time or other he, like David later on, came into conflict with the Edomites, whose territory bordered on that region. Again, his victory over the Ammonites must have brought him into collision with their neighbours, the Moabites. As a matter of fact, we find the king of Moab offering an asylum to David and his parents from the pursuit of Saul (22. 3-4), in which act he was no doubt actuated by the same motives as Akish, king of the Philistines (27. 2 ff.), viz. enmity of Saul, who had carried on war with him. Further, the description of the extent of the rule of Ishbosheth in II, 2. 9 (where read with Targum האשורי for האשורי) proves that Saul's rule reached also the northern tribes of Israel. It is, therefore, quite probable that Saul, like David after him, had to fight the aggressive kingdom of Zobah and her allies or vassals, who were neighbours of the northern tribes. Note that during his residence at Hebron, when he was carrying on a struggle against the house of Saul, we find David contracting an alliance with one of these northern kings, viz. Talmai of Geshur, by marrying his daughter Ma'akah (II, 2. 3), which tends to support the statement in 14. 47 that Saul had been at war with 'the kings of Zobah', viz. Zobah and its allies and vassals, including probably

Geshur.³⁰ Finally, of his wars against Ammon and Amalek we have detailed accounts in our book in chs. 11, 15. The whole passage 14. 47-52 may very well be the original work of our author, who wrote this brief summary in order to satisfy the curiosity of the reader. Like the similar summaries in II, ch. 8; 20. 23-6, it seems to be intended to mark the conclusion of a definite period in Saul's reign. It does not form, as Wellhausen³¹ and his disciples maintain, the conclusion to the whole history of Saul's reign, any more than II, 20. 23-6 forms the conclusion to the whole history of David's reign.

50. (ch. 15.) Ch. 15 is the author's own account of the rejection of Saul, as distinguished from the first account, which he reproduced from an earlier writer in 13. 8-14. Vers. 1a, 17b refer back to 10. 1; while ver. 17a recalls 9. 21a. In ver. 19b we have a phrase borrowed from 14. 32 (cf. below, § 72). Ver. 28, like 28. 17, seems to have been written by one who knew, or had written, 16. 1-13. Wellhausen and his followers assert that this chapter could not have been written by the author of 14. 48. But why not? The point of view is indeed different. 14. 48 gives us a brief but true summary of the results of the Amalekite campaign for the security of the nation, while ch. 15 utilizes the same event for quite a different purpose. Hence the difference in the method of presentation between the two accounts. But the two accounts are not inconsistent, and there is no reason why the same author

³⁰ Some writers hold that Absalom's mother belonged to the Southern Geshur (27. 8; Josh. 13. 2). But II, 15. 8 says explicitly that this Geshur was in Aram. To assert that גֶּשׁוּר there is a gloss (S. A. Cook, *American Journal of Semitic Languages*, vol. XVI, 160) is quite arbitrary. What could have been the object of the insertion of such a gloss?

³¹ *Op. cit.*, 244; cf. *ibid.* 255.

could not have written of the same event in two different places, for two different purposes, and hence from two different points of view. It is, however, quite possible that our author made use in the composition of this chapter of older material, which affected both the tone and the setting of his story. It is further argued by the critics that ch. 15 should have contained some reference to the rejection in 13. 8-14. But, as we have shown above (§§ 43, 47), 13. 8-14 is not part of the author's own story. He found it as part of a larger extract which he incorporated from an older source. But he did not thereby appropriate it fully as his own, that he should have to refer back to it. However, we may be quite sure that had our chapter contained a reference to 13. 8-14, the critics would have certainly declared the reference to be a 'redactional' interpolation, as they have done with the reference in 3. 12 to 2. 27 f, and with the reference in 28. 17-18 to ch. 15.

51. Some critics declare 15. 24-31 to be an interpolation. They argue that this passage 'is wholly superfluous (!), and can be left out without disturbing the consistency of the narrative' (cf. H. P. Smith, *op. cit.*, 139). But by this sort of reasoning we may cut out also vers. 20-23 as 'wholly superfluous', &c. As a matter of fact, our passage is in no way superfluous. For it gives us a number of new details, such as the confession of Saul, the rending of the cloak and its symbolic interpretation, and the return of Samuel to the sanctuary, which are of the utmost importance to the flow of the narrative and the development of the design of the narrator. The impressiveness of the religious lesson which the writer intends to teach would be greatly weakened if Saul's guilt had not been brought home

to him so completely as to force him to a humble confession. Further, Samuel slew Agag within the Sanctuary (לפני ה', ver. 33). It is, therefore, necessary for the writer to state expressly that Samuel had come into the Sanctuary, but this is only done in this passage (vers. 25, 30, 31). The inconsistency between ver. 29 and ver. 11 (נחמתי), out of which these critics make so much capital, should occasion no difficulty. Ancient Hebrew writers were not such strict logicians as our modern critics, and their conception of the Deity often vacillates between anthropomorphism and transcendentalism; contrast Gen. 6. 6; Exod. 32. 14 (where see Ibn Ezra), &c. with Num. 23. 19.

THE STORY OF DAVID.

David and Saul.

52. (ch. 16.) The last important act of Samuel in his old age was the anointment of David recorded in 16. 1-13. This narrative serves both to conclude the story of the public life of Samuel, and also to introduce the second chief hero of our book, David son of Jesse. We have already discussed at some length in the first part of this paper the composition of chs. 16-17, but for convenience sake we will recapitulate here the conclusions arrived at there. 16. 1-13 is the direct sequel to ch. 15, and 16. 14-23 is the continuation of 16. 1-13. The whole of ch. 16 forms a unity, and is the original work of the author of our book. The same author incorporated into his work from an older source the account of David's exploit against the Philistine champion in ch. 17, but omitted from that account the portions missing in LXX B (17. 12-31; 17. 55-18. 5),

because they contradicted his own account in ch. 16. These omissions were, however, inserted later in the archetype of MT from the original old source by a scribe who regarded the author's text as a mutilation. To this scribe belongs also 17. 15, which is intended to reconcile ch. 17 with ch. 16, and the additions, consisting of 17. 41, 48 b, 50, which are not found in LXX B, and, therefore, were presumably absent also from the original text of our author. We may also assign to him some other passages found in MT but not in LXX B, e. g. 2. 22 b β (cf. § 38), 13. 1. These additions are probably the original compositions of the scribe.

53. (ch. 18.) The problem of the composition of ch. 18 is more difficult. We may state at once that the shorter text of LXX B is the original text of our author, while the MT is a later amplified and expanded recension. For, as we have remarked above in foot-note 14, assuming even that LXX B or his Hebrew original had played the rôle of the higher critic, it is impossible to explain on what grounds he could have omitted such passages as 18. 10-11, 12 b, 29 b-30. The easiest and most satisfactory explanation of the absence of these passages in LXX B is that they are later additions in MT. We may, therefore, safely conclude that ch. 18 as it lies before us in LXX B is the original work of our author, and that the same scribe who inserted in MT 17. 12-31, 55-8, also inserted from the same source 18. 1-5, adding 6 a as a link, and 18. 17-19, which refers back to 17. 25. We may likewise assume that this scribe is also the interpolator of the glossatory amplifications, vers. 8 b, 12 b, 21 b, 26 b, 29 b, and possibly also ver. 30, all of which would be his own composition like 17. 41, 50. It is more difficult to decide the *provenance*

of 18. 10-11. Critics have declared this passage to be a duplicate of 19. 9-10. They maintain that an attempt on David's life was at this stage still premature, since Saul's hatred had not yet reached at this moment such a high degree of intensity as to drive him to commit murder. But have we a right to demand from Saul such a strict 'method in madness'? Who can account for the sudden impulses of a deranged mind? It is true that in 19. 1 f Saul hesitates to take David's life without the consent of Jonathan and his servants, but there he may have been in his normal state of sanity. Again, there is no reason why we should not assume that Saul made two attempts to slay David with his spear. If 19. 9-10 was the second attempt, it would help the better to explain David's desperate resolve to leave the king's court altogether. Further, the style and diction of 18. 10-11 are certainly older than those of 19. 9-10. Note in the first passage *רוח ותצלח* against *רוח ותהי* in 19. 9; *ויתנבא*; the more virile style in 18. 11 as compared with 19. 10; *ויטל* against *ויסב*, and the direct oration in 18. 11, all of which seem to indicate greater originality for the first passage. On the other hand, the absence of this passage from LXX B must be considered decisive against its belonging to the author of our book, though it may very well belong to a source older than our author's own work. We must, therefore, declare this passage a later insertion into the work of our author. It may have been inserted by the same scribe who inserted vers. 1-5, 17-19, but he cannot have taken it from the same source, viz. the original source of ch. 17, since that chapter does not know of Saul's madness and of David's service as his minstrel.

54. (ch. 19.) In ch. 19 the author continues the story of

the ever-widening breach between Saul and David. 19. 1 is the continuation, as in LXX B, of 18. 29 a. Note the full designation *יונתן בנו*, or *יהונתן בן שאול*, by our own author, as distinguished from the simple *יהונתן* in 18. 1-4, which is not by our author but is part of the insertion. Further, the statement in 19. 1 b sounds rather tame beside 18. 1, 3-4, which supports our contention that the two passages are not by the same hand. Some critics hold that 19. 2-3 is an interpolation, and that ver. 4 is the direct continuation of ver. 1, as Jonathan should have interceded for David immediately on hearing his father's proposal to slay him. But it is unlikely that Jonathan would have spoken in David's favour while his father's mind was still excited and bent on destroying David. The implication of the text, that Jonathan waited with his intercession until his father's anger had subsided, is no doubt correct. It is, however, difficult to understand why Jonathan should have to speak to Saul in the field. To get rid of this difficulty, as some critics do (cf. Budde, *op. cit.*, 221), by deleting ver. 3 a β (*ואני . . . שם*) is arbitrary and violent. It is better to regard ver. 3 as a vague reminiscence of the account in ch. 20, which, as we shall show later (§ 58) was unknown to our author. Perhaps this passage is an abridgement of a longer story parallel to ch. 20.

55. Wellhausen (*op. cit.*, 250) and others regard 19. 11-18 as an interpolation, because in ver. 10 b we are told that David had escaped, yet in ver. 11 he is still in his own house. But surely *נָס וימלט* need mean no more than that he fled from Saul's court to his own house, which was probably situated at some distance from the king's residence, as appears from the wording of ver. 7 b. Note the use of *נָס* in describing his flight from the presence of the king to

his own house (ver. 10 b) and of ברה in describing his flight from Gibeah to another locality (19. 12, 18; 20. 1; 21. 11. Contrast also, for example, Gen. 39. 13; Num. 16. 34 with 2 Sam. 4. 3; 13. 37, &c.).³²

56. The same judgement has been passed by the critics on 19. 18-24, which they declare to be a late apocryphal story invented to explain the proverb, 'Is Saul among the prophets?' (ver. 24 b). They argue that the explanation of the proverb given here contradicts the earlier and more genuine explanation given in 10. 12. But it is hard to see how this contradiction is removed by assigning our passage to a late writer, who no doubt would have known the explanation in 10. 12. The difficulty may be overcome by taking ver. 24 b as a gloss. But really the difficulty is only of the critics' own making. For, as a matter of fact, the story here is not intended to explain the proverb, but, on the contrary, the proverb is brought in as an illustration and an explanation of the strange and startling conduct of Saul in vers. 23 b, 24 a. The writer explains it by a reference to the well-known proverb which illustrates Saul's susceptibility to prophetic inspiration. He does not assert that his story was the origin of the proverb. Had he meant to say that, he would have expressed himself something in the same way as the earlier writer in 10. 12: על כן היתה למשל. The critics further maintain that our story contradicts 15. 35, according to which Samuel never saw Saul again after his rejection. But this involves a very literal and strained interpretation of 15. 35. All that the passage means to say is that Samuel severed all further connexion and intercourse with Saul throughout his re-

³² Wellhausen (*ibid.* 251) noticed this difference of expression, but failed to grasp its significance.

maining life; it does not mean to exclude such a chance meeting as is described in our story.

57. Finally, the critics argue that the right course for David in his flight from Saul was to go straight to the South on his way to his home in Judah. He could not have gone northwards from Gibeah to Ramah 'just for mere fun' ('*zum Spass*', Wellhausen, *op. cit.*, 250). To this we answer that David was too wise and too cautious to have adopted the plan of the critics. Had he gone straight South, he would have placed his old parents and all his family in a very dangerous position, without being able to offer them any help against Saul's certain vengeance. The fate of the priests of Nob would no doubt have befallen the whole of Jesse's clan, and perhaps the whole of Bethlehem. When David was finally forced into open outlawry, he was immediately joined by his whole clan for fear of Saul, and he took the precaution of removing his old parents out of the reach of Saul's vengeance, and placing them with Saul's enemy the king of Moab (22. 1, 3-4, cf. above, § 49). The fact is that at the stage reached by our story in 19. 18, David had not yet given up all hope of an ultimate reconciliation with the king. Saul's son and heir was his devoted friend; Saul's daughter was his loving wife; he himself was the darling of the army and a favourite with all the people; the prophets and priests were also his friends (cf. § 25). He felt himself innocent of any offence against the king. Why should he abandon his country and his people and turn an outlaw at the accidental outburst against him of an insane man? Therefore he fled to Samuel with a view to finding a shelter with the prophet until the king's mind should return to sanity. But finding that he was not safe at Ramah, David was obliged to flee south-

wards, and first he stopped at Nob to seek shelter there with his friends the priests (21. 2 ff.). The naïve innocence of Ahimelek and the presence at Nob of Doeg (cf. 22. 22) soon, however, convinced David that he could not remain there much longer, and so he departed hastily and resumed his wanderings in search of a temporary asylum from Saul's madness (21. 11). But he carefully avoided returning to Bethlehem or its neighbourhood, for fear of involving its people in trouble with Saul. Further, a little consideration should have convinced our critics that 19. 18-24 cannot be a late production. The details of the school of prophets attached to Samuel's sanctuary just outside Ramah (cf. 9. 25 a), and of the workings of the prophetic frenzy, show clearly that our story is related to 10. 5-6, 10-13, and to the stories of the 'sons of the prophets' at the sanctuaries of Bethel, Jericho, and Gilgal (2 Kings 2. 3, 5; 4. 38 ff. Note יִשְׁבִּים לִפְנֵי; 6. 1 f, &c.), and must, therefore, belong to a pretty early date. We may therefore, without any hesitation, declare our passage to be genuine and original to our author. Thus, the whole ch. 19 is found to be a unity and the work of the author of our book.

58. (ch. 20.) Ch. 20 seems irreconcilable with ch. 19. Jonathan would not have affirmed ignorance of his father's designs against David after the events described in 19. 11 ff; and David would not have sought for another test of Saul's mind after his flight from Gibeah and the king's repeated attempts to seize him. Nor would Saul have expected David to attend the royal table after the final breach between them detailed in ch. 19. We are, therefore, forced to the conclusion that ch. 20 is not by the same author as ch. 19, i.e. it is not by the author of our book. The continuation of 20. 1 a is 21. 2, viz. וַיִּבְרַח דָּוִד מִנִּיּוֹת בִּרְמָה וַיָּבֹא

נבה אל אח', &c. דוד in 21. 2 a may be an addition after the insertion into our text of 20. 1 b-21. 1. The insertion of ch. 20 must have been made before the insertion in chs. 17, 18, since ch. 20 is found also in LXX B. The text of this chapter is not wholly original. Vers. 11-17 are probably an addition by the scribe who inserted the chapter into our book. For the answer to David's question in ver. 10 is not given till ver. 18, which must originally have followed immediately on ver. 10. There is, however, no reason to doubt with some critics the genuineness of vers. 4-10, since ver. 6 is necessary for ver. 29. That ver. 5 is also repeated in ver. 18 f. should occasion no difficulty. In ver. 18 f. Jonathan is merely recapitulating in its entirety the common plan, the first part of which was suggested by David in ver. 5.

59. The critics have also declared vers. 40-42 to be an interpolation. Their reason is that if an interview between the two friends had been possible, then the whole device of the sign by the arrows was altogether unnecessary. But, on the other hand, ver. 40 reads as the natural continuation of ver. 39, and ver. 41 as the continuation of ver. 40. There is no sign whatever of any break at ver. 39, nor does that verse read like the conclusion of the preceding account. Again, if 21. 1 be thought the direct continuation of 20. 39 and the conclusion of the account, then the order of the clauses in 21. 1 should have been reversed: first the clause about Jonathan, who is the actor in the preceding verses (20. 34-9), and then the clause about David, who is the actor in the following verses (21. 2 ff.). There is, therefore, no doubt that vers. 40-42 are an integral part of ch. 20. It is true that the interview after the sign of the arrows is quite illogical, yet it is, nevertheless, characteristically

human and psychologically correct. This interview was, indeed, very dangerous to both of them, yet it did take place, because the sentiments and emotions of the friends overruled the dictates of their cold reason. Jonathan must have found it hard to return to the town immediately in the company of his lad. He no doubt lingered behind for a while in the hope of catching, perhaps, a glimpse, maybe the last one, of his beloved friend. David, on his part, when he saw that the lad had gone, and Jonathan had remained alone, in the impulse of the moment cast all caution to the winds, and rushed forth from his hiding-place towards his friend and protector; and the emotional Jonathan yielded to the longing of his heart to embrace his friend and offer him his last farewell.

60. As to the source of ch. 20, it may, perhaps, have been the same document from which our author had borrowed ch. 17 f. The warmheartedness of Jonathan and the generous devotion to his friend displayed in this chapter recall Jonathan's sudden outburst of love in 18. 1 ff. rather than the tame friendship of 19. 1 b. Note also the reference to their covenant in 20. 8, which must refer to 18. 3. On the other hand, כפישע⁵³ in 20. 3 seems to refer back to 18. 11 (less probably to 19. 10). Indeed, 20. 1 b would form an excellent continuation to 18. 11. But, as we have noted above (§ 53), 18. 10-11 (or 19. 9-10) cannot belong to the source of chs. 17-18. 5, since that source is ignorant of David's activity as the king's musician. However, this much we may assert with a certain degree of assurance, that ch. 20 was inserted into the work of our author by an early scribe, and that the original portions of this chapter

⁵³ Cf. Rashi and the other Hebrew commentators *ad loc.* The **ש** is the *kaph veritatis*; cf. Gesenius-Kautzsch, *Heb. Grammar*, § 118 x.

(i. e. vers. 1 b-10, 18-21. 1) are derived from an old source which was either ignored by, or unknown to, the author of our book.

61. (ch. 21.) The author's own narrative, which was interrupted in 20. 1 a, is resumed in 21. 2 and continued throughout the chapter. Budde (*op. cit.*, 226) has rightly defended the genuineness of vers. 8-10. These verses are an essential part of the story, for the possession of a sword was almost as necessary to David as the possession of bread. Ver. 8 is not, as Wellhausen (*op. cit.*, 251) asserts, a rehash of 22. 9. On the contrary, 22. 9 is dependent on this verse. Here Doeg is introduced as an unknown person, his name, origin, and occupation are described, and also the cause of his presence at Nob. In 22. 9, on the other hand, Doeg is mentioned simply by his name without any further introduction, such as *וַיֵּעַן אִישׁ וְשֵׁמוֹ ד'*, as one who is already known to the reader; only a clause is added explaining the presence of the chief shepherd in Saul's court. *גִּלְיָה* in ver. 10, as in 22. 10, is a gloss, as stated above (§ 30). The account of the visit to Nob ends in ver. 10 rather abruptly, and is probably in a fragmentary condition.

62. 21. 11-16 has been condemned by all critics as a late interpolation. The strange story is ingeniously explained by the critics as a late insertion which had its origin in the desire to explain away as unhistorical the well-known story of David's residence in the Philistine court given in 27. 2 ff. David's vassalage to the Philistine enemy of his people was considered unworthy of the future great king, and so this story was invented and designed to take the place of chs. 27. 2-28. 2; 29-30; II, 1. In other words, the story here is a pious fraud, which, however, failed in

its object, since it did not succeed in eliminating from our book and destroying the chapters just enumerated. Now, we ask, can any one really believe that if redactors had thought David's vassalage an act of treason, and had really desired to obliterate its memory from future generations, they would not, with all the resourcefulness and adroitness ascribed to them by the critics, have found better means for carrying out their object than the futile invention and interpolation of this anecdote here? The hypothesis has only to be stated in its plain nakedness to be laughed out of court. The fact is that the ancient Hebrews could not, any more than the ancient Greeks in a similar case, see anything treasonable or dishonourable in David's vassalage. We find nowhere any censure on David for his connexion with the Philistines. And we have no right to ascribe to the ancients our modern conception of patriotism and honour. What, then, it may be asked, has forced the critics to this strange theory? The same reason which forced them to declare 19. 18-24 spurious, viz. that David had refused to adopt their plan and run straight from Gibeah to Bethlehem. But, as we have pointed out in our discussion of the latter passage (§ 57), David did not go straight home, because he did not wish to turn himself and all his clan into open outlaws and rebels. He first sought a refuge with his friends the prophets (19. 18-24) and the priests (21. 2-10), and having failed in this, he resolved to hide himself abroad for a time until he should find it safe to return to his home at Gibeah. The earliest and the most obvious plan was to conceal his identity and go to Philistia, where he would be within easy reach both of Gibeah and of Bethlehem. This he did, but to his dismay he found that the Philistines had dis-

covered his identity.³⁴ To escape death he had to prove that he was not the renowned Israelite champion, and so he feigned madness and was expelled from the Philistine court. His repeated failures to find a temporary asylum forced him at last to take to the wilds of Judea and adopt the life of an outlaw (22. 1). The story must appear quite plain and reasonable to those whose minds are not obsessed by any preconceived notions. The critics take offence at ver. 11 a, which they think superfluous after 19. 18 a; 20. 1 a. But the statement of this clause is necessary here, for it really means to say that David fled from the country of Israel ruled by Saul and went abroad. Cf. the similar statement in Jonah 1. 3 a. Again, the expression מֶלֶךְ הָאָרֶץ in ver. 12 has given the critics, as well as the commentators, a great deal of trouble. But it is really nothing more than an anachronism, such as we have already met with before in this book (cf. § 42).

³⁴ That David sought to remain incognito at Akish's court is evident from the words in ver. 12: הֲלֹא זֶה דָּוִד !... הֲלֹא לוֹה !...

(To be continued.)

NOTE ON 'AN AUTOGRAPH RESPONSUM OF 'MAIMONIDES' (JQR., VI, 225 ff.).

DR. HALPER's interesting article on 'An Autograph Responsum of Maimonides' will be welcomed by all students of Maimonides. The following remarks may indicate the interest with which the writer has read Dr. Halper's publication.

The bibliography of Maimonides' responsa and autographs quoted on p. 225, n. 2, may be considerably amplified. Four autograph pages of the *More* were published by Hirschfeld in *JQR.*, XV, 678 ff. An autograph responsum was published by me in *MGWJ.*, LII, 621 ff. An Arabic letter, bearing in all likelihood Maimonides' autograph signature, was published by S. H. Margulies, of Florence, in the same magazine, vol. XLIV, 8 ff. Finally, the Arabic original of Maimonides' famous anti-Karaite decree was edited by me in the same Review, vol. LIII, 469 ff.

Professor Simonsen, in Copenhagen, referred to by Dr. Halper (p. 226), is now in possession not only of the well-known Arabic manuscript of Maimonides' responsa underlying Tama's translation, but also of a copy of the Bodleian MS. (Catal. Neubauer, No. 814) containing a goodly number of Maimonides' responsa in Arabic, see Simonsen in *Guttmann Jubelschrift*, p. 213. From his remarks, *ibidem*, p. 217, it appears that he is the happy owner of still another collection of Maimonides' responsa. I may add that I myself possess a photographic reproduction of the Bodleian MS.

Dr. Halper's characterization of Maimonides' Arabic constructions as 'ungrammatical' (p. 225) is erroneous and, applied to a man of Maimonides' standard of culture, extremely unjust. I have on numerous occasions (in the introduction to *Der arabische Sprachgebrauch des Maimonides* (part I), in the introductory grammatical sketch to *Selections from the Arabic Writings of Maimonides*,

pp. xiv ff., in the article *Die arabische Sprache des Maimonides*, in *Moses ben Maimon*, edited by Guttmann, vol. I, 421 ff.) demonstrated in detail that Maimonides' Arabic is essentially the language generally used during that period.

As for the responsum itself, it is interesting to note the two dots above the ת (recto, l. 16). It is characteristic of Maimonides' way of spelling, and is found in the other autographs as well. The use of ו after אִי (verso, l. 6), supposedly an imitation of the rabbinic הוּאִיל ו, is also typical of Maimonides' style. Recto, l. 14, add ענה after מנהי. It is found in the photograph, and has no doubt been left out by mistake.

The explanation of ויכרנה and ויכרנה (p. 227, n. 5) as Hebrew words followed by Arabic suffixes (= ויכרְנוּ and ויכרְנוּ) is unacceptable. The suffixes are *Hebrew*, and the feminine gender refers to the preceding titles הדרת יקרת וכ', which are feminine. The construction is an imitation of an identical Arabic usage, an example of which may be found in a letter addressed to Maimonides, published by me in the Jubilee volume in honour of Hermann Cohen (*Judaica*) under the title *Ein Gratulationsbrief an Maimonides*, p. 263, n. 7.

ISRAEL FRIEDLAENDER.

Jewish Theological Seminary of America.

THE JEWISH QUARTERLY REVIEW

A PUBLICATION DEVOTED TO JEWISH HISTORY,
LITERATURE, PHILOLOGY, ARCHAEOLOGY,
AND COGNATE SUBJECTS

THE New Series of this Review, edited by CYRUS ADLER and S. SCHECHTER, is a continuation of the Quarterly published in London from 1888 to 1908. The subscription price is fixed at Three Dollars per annum. Back volumes of the New Series can be furnished to the Subscribers at Two Dollars per volume. Checks or Money Orders should be made payable to the *Jewish Quarterly Review*. Manuscripts, Books for Review, Checks, &c., should be addressed to the Dropsie College for Hebrew and Cognate Learning, Broad and York Streets, Philadelphia, Pa., U.S.A.

THE KARAITE HALAKAH

AND ITS RELATION TO
SADDUCEAN, SAMARITAN, AND PHILONIAN
HALAKAH

By BERNARD REVEL, M.A., PH.D.

Eighty-eight pages. Cloth bound. Price \$1.00 post paid.

A VOLUME OF THE BOOK OF PRECEPTS

By HEFES B. YAŞLIAH

EDITED FROM AN ARABIC MS. IN THE LIBRARY OF THE
DROPSIE COLLEGE, TRANSLATED INTO HEBREW
AND PROVIDED WITH CRITICAL NOTES
AND AN INTRODUCTION

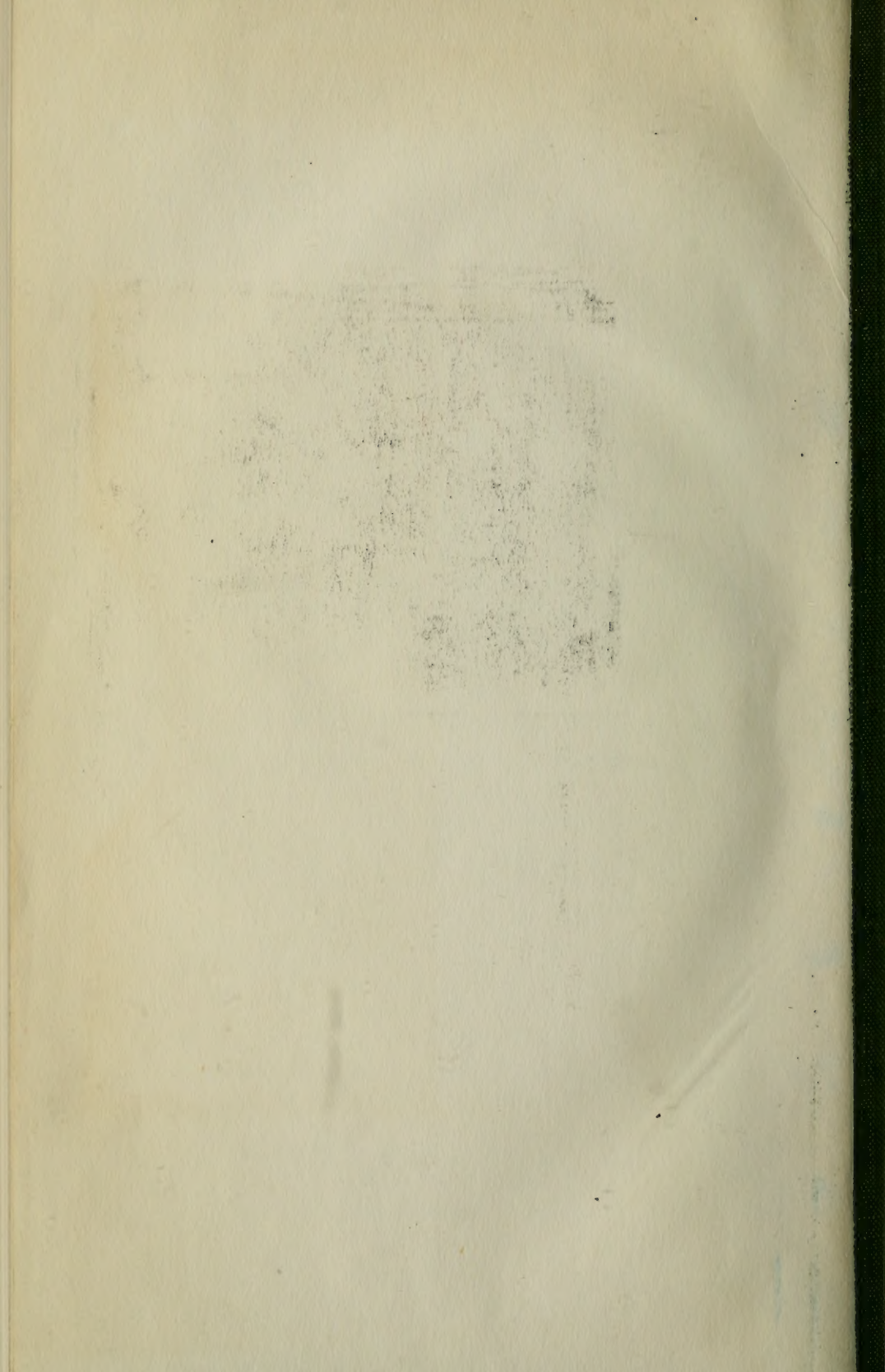
By B. HALPER, M.A., PH.D.

278 pages. Cloth bound. Price \$3.00 post paid.

For Sale by

THE DROPSIE COLLEGE FOR HEBREW AND
COGNATE LEARNING,

BROAD AND YORK STREETS, PHILADELPHIA, PENNA.



DS
101
J5
v.6

The Jewish quarterly review.
New ser.

PLEASE DO NOT REMOVE
CARDS OR SLIPS FROM THIS POCKET

UNIVERSITY OF TORONTO LIBRARY
